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# VALUATION OF REAL PROPERTY

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THE LAW AND PRACTICE  
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# VALUATION OF REAL PROPERTY

A GUIDE TO THE PRINCIPLES OF  
VALUATION OF LAND AND BUILDINGS, ETC.  
FOR VARIOUS PURPOSES  
INCLUDING THE TAXATION OF LAND VALUES

*WITH NUMEROUS EXAMPLES*

BY  
CLARENCE A. WEBB, F.S.I.  
AUTHOR OF "RATING AND ASSESSMENT," ETC.

Third Edition, Revised and Enlarged

BY  
ARTHUR HUNNINGS, F.S.I.  
RATING SURVEYOR TO THE HACKNEY BOROUGH COUNCIL;  
LECTURER AT THE NORTHERN POLYTECHNIC INSTITUTE



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## PREFACE TO THE THIRD EDITION

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THE second edition of Webbs' "Valuation of Real Property" having been exhausted it has been thought desirable, having regard to the amendment of the Finance (1909-10) Act, 1910, by subsequent legislation and the publication of Statutory Rules and Orders by the Commissioners of Inland Revenue and the Reference Committee under the Finance (1909-10) Act, 1910, to recast the Chapter on Land Values Taxation. Owing to stress of other work my friend Mr Webb has found it impossible to attend to this, and has invited me to undertake the revision for the third edition. I have taken the opportunity to introduce some minor improvements which have suggested themselves to me when using the book in connection with my lectures upon Valuation, and several additional examples have been added with the view of still further illustrating the various matters dealt with. An entirely new chapter dealing with the subject of Tithe Rent-charge has been added, and the order of some of the chapters has been altered.

A. H.

NORTHERN POLYTECHNIC INSTITUTE,  
HOLLOWAY ROAD, N., 1913.

EXTRACT FROM

PREFACE TO THE FIRST EDITION

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THIS volume is intended to give students and candidates in the examinations of the Surveyors' Institution, Auctioneers' Institute, etc., a general knowledge of the principles and practice of Valuation of Real Property for the various purposes for which it is required. It is hoped, however, that it will also be found of use to House, Land, and Estate Agents, Auctioneers, Surveyors, and others who are called upon to value land and buildings, etc., as well as to owners and others who are interested in real property.

I have to tender my thanks to Mr H. Seymour Couchman, Surveyor and Assessor of the Manors of Tottenham and Edmonton, who has kindly read through the proof sheets of the Chapter on Copyhold Enfranchisements, and to several members of the profession who have made valuable suggestions.

C. A. W.

LONDON, *June* 1909.

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# VALUATION OF REAL PROPERTY

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## INTRODUCTION

THE subject of valuation of real property is of the first importance to land and estate agents, surveyors, architects, and auctioneers, and all interested in the management of land and buildings. It is thus very essential that the young assistant in these professions should learn the guiding principles of this subject at the outset of his career. The subject is very properly given great prominence in the examinations qualifying for membership of the Surveyors' Institution, the Estate Agents' and Auctioneers' Institute, etc., and it is hoped that this volume will be of assistance to candidates for these examinations, as well as to other members of the profession.

It must be thoroughly understood at the outset that the fixing of values of interests in real property is a matter which cannot be taught absolutely by any number of books, however exhaustive they may be. Thus, the rates per cent. of interest allowed in this volume must only be regarded as fair averages for the class of property under consideration in each case. It is only by experience that the valuer can decide which table shall be used in valuing a particular property, after he has made himself thoroughly acquainted with all the circumstances. Take again the case of the valuation of a farm for fixing a fair annual rent. It is only possible in this work to give hints as to the principal points which should be inquired into, but to properly arrive at the value to be attached to the various points, a good knowledge of agriculture under various conditions is of great importance.

To make a good valuer it is necessary that the habit of observation should be strongly developed, and no opportunity should be missed of analysing the results arrived at by leading men in the profession whenever opportunity occurs. Whatever good qualities a surveyor may have, however, it is absolutely essential that he should first thoroughly grasp the principles upon which all valuations are based, and it is hoped that this volume will be of assistance in this respect.

**Important to know Purpose for which the Valuation is Required.**—The valuer must fully understand the purpose for which the valuation is required. To the man in the street it may appear that the valuation of a certain property should be the same under all circumstances, and that if the valuer gives different figures for different purposes, this amounts to little short of juggling. It only needs stating, however, to be at once realised, that the valuer is in a very different position if he is advising as to what sum can be safely lent upon mortgage of a property, to that when he is advising the owner as to what amount he may expect to get for the property if sold in the open market. In the first case, the valuer has to bear in mind that foreclosure and subsequent sale may ensue at a very inopportune moment, probably with the accompaniment of accrued interest. In the latter case, however, the owner possibly may take his time and wait until he gets a good offer from a person who can make full use of the property.

Take again the example of a claim where property is being acquired by a public company having compulsory powers under the Lands Clauses Consolidation Acts or other Acts. Here the seller is an unwilling seller, and it is quite reasonable that he should not only be insured against all possible loss, but that he should also obtain some compensation for any inconvenience to which he may be put, and for any prospective rise in value. Thus the valuer is quite justified in taking a somewhat liberal view of the value of the property in these circumstances.

In valuation for rating the annual value has to be estimated in accordance with the definitions in the Rating Acts, while for the purposes of land values taxation and death duties the capital value has to be estimated on the basis of the value in the market between a willing seller and a willing buyer.

The business of a surveyor may be mainly confined to valuation for a particular purpose, and an effort has been made in this book, while giving valuations of real property for the various purposes for which it is required, to differentiate between these various aspects, and to show the main principles which should be borne in mind in each case.

### **Knowledge of the Law of Real Property Necessary.**

—It is essential that the valuer should have an intimate knowledge of the law of real property, including the law relating to contracts for sale and purchase, easements, dilapidations, fixtures, etc., and the law of landlord and tenant, in order that he may fully understand the relation of the various parties concerned, and the incidents of the various interests in land which he is called upon to value. For this knowledge the reader must be referred to the various standard legal books, but reports of all cases tried in the courts which bear upon the subject should be carefully read, and noted for future reference.

**Definitions of Various Tenures.**—It will be advisable here, however, to shortly define the various interests and tenures which are commonly met with by the valuer, and some of the terms which are used in connection with real property. It must be mentioned that in this volume the word “land” is to be taken to include all buildings, timber, etc., upon it, except where such meaning is inconsistent with the context, and that the term “real property” includes chattels real (leasehold, etc.), except where the more limited meaning is obviously intended.

Ownership then may be—

1. Absolute, as in fee simple ; or,
2. Limited, as a tenancy for life or years.
  1. In possession ; or,
  2. In expectancy, as the right to the reversion of a property upon the decease of a tenant for life.
1. In severalty, that is, vested in one person ; or,
2. In community, that is, vested in two or more persons as co-owners.

(a) Joint tenants have joint ownership under one

title with the right of survivorship or succession by the survivors to the share of the others upon their decease.

(b) Tenants-in-common. Each holds an undivided portion, and under certain circumstances the land may be divided and part sold, or the whole estate sold and the proceeds divided.

(c) Co-parceners hold by one title without right of survivorship. These tenancies arise when a man dies intestate leaving daughters but no sons. The daughters take equal shares of the real estate as co-parceners. If a daughter has pre-deceased her father, her children take her share *per stirpes*.

The various estates now existing in land may be classified as follows:—

#### I. Freeholds or real estate.

1. Fee simple. Here the owner may do what he pleases with the land so long as he does not infringe the rights of others. The freeholder also has full power of grant and bequest. There may, however, be a rent or rent-charge payable by the freeholder out of the land.
2. Fee tail. The owner has much the same powers as a freeholder, but cannot dispose of his property by will. It goes to his son or other heir, according to the entailing deed. He is generally able, however, to "bar the issue," in which case the property becomes his fee simple.
3. Tenancy for life. Here the land reverts to the person provided in the deed upon the decease of the tenant. The powers of the tenant vary, but generally are much greater than in the case of a tenant for years. They are controlled by the terms of the deeds and by the Settled Lands Acts.



## II. Estates less than freehold, called chattels real.

1. Tenancy for years. This arises when one person grants his land to another by lease or agreement for a fixed term of years, or during the continuance of some life or lives, generally in consideration of an annual rent and other conditions.
2. Weekly, monthly, or quarterly tenancies are similar to leases, but for a shorter term. They are made by agreement, either written, parol, or inferred.
3. Tenancy at will. The land is granted on the understanding that it may be resumed at any time. If rent is regularly paid, such tenancies may be converted into annual, quarterly, or other tenancies.
4. Tenancies on sufferance. These arise where a tenant holds over after the expiration of his lease. If rent is paid and received, such tenancies may be converted into annual tenancies, etc.

In addition to the above, there are the following interests:—

Copyhold tenure. This is dealt with more fully in the chapter on Copyhold Enfranchisement, and it will suffice to say here, that copyhold is ancient tenure of the lord of the manor, who receives certain fines, etc., from the copyholder. By the Copyhold Act, 1894, the lord or tenant has the right to convert the estate into freehold upon commutation of the fines, etc.

Some lands are subject to special customs, the principal of which are burgage and gavelkind. These principally affect the descent of the land in the event of the owner dying intestate.

Mortgages consist in the granting of lands, etc., in pledge as security for debt. The mortgagee obtains the legal title, but the mortgagor generally retains full possession, and has the right to reconveyance of the property upon payment of the debt and interest. The subject of mortgages is dealt with in a subsequent chapter.

An advowson is the right to appoint the incumbent of any ecclesiastical benefice. Advowsons are commonly attached to manors, and are then treated as real property, and pass with a grant of the manor.

Franchises are royal prerogatives in the hands of a subject, *e.g.*, the exclusive right to hold fairs and markets and to take tolls. These rights also are commonly appendant to manors.

## CHAPTER I

### PRINCIPLES OF VALUATION

**Capital Value.**—In estimating the capital value of an interest in real property, the valuer as a rule bases his calculations upon the net annual value of the property as it stands, or the net annual income which will be forthcoming if the property is put to the best possible use. In some cases, however, it is found necessary to value the land and buildings separately.

In the first method there are four factors involved in the calculation: (1) net annual income, (2) the term during which the income is to be enjoyed, (3) the rate of interest which is to be allowed for, and (4) any immediate expense of a capital nature necessary in order to secure the income. The term will depend upon the interest which is being valued, but the other factors must be determined by the valuer, and it is here that his special knowledge and skill are required.

The capital value is arrived at by multiplying the net annual income by what is called the years' purchase (Y.P.). From the sum thus obtained must be deducted any necessary immediate expense of a capital nature.

**Years' Purchase.**—The years' purchase depends upon the term and the rate of interest allowed in the calculation. In the case of perpetual incomes, such as those derived from freehold property, the years' purchase always equals 100 divided by the rate per cent. Thus, if a man invests a sum at 5 per cent. interest, and the yield is £50, the sum is obviously £1,000, or  $£50 \times \frac{100}{5}$ . Thus, Y.P. equals  $\frac{100}{5}$ . In the case of terminable incomes the years' purchase is obtained from tables as explained later in this chapter.

**Rate per Cent.**—The rate per cent. at which interest is to be allowed must be determined by the valuer. Rough average

figures are given below for the various descriptions of property, but the exact rate to be used will vary with circumstances, and it is only by experience that the right rate can be ascertained with any certainty.

In short, the rate per cent. depends upon the market and the security. The market is a matter of supply and demand, the demand depending upon the amount of money which is available for investment in the particular kind of property or the number of competitors for the particular property under consideration. With regard to the question of security, it is obvious that a man investing in Consols is content with a smaller rate of interest than if he invested in South African mining shares. The risk is infinitely less, and the investor knows that he can turn his stock into money at short notice, should he find it desirable to do so. In the same way it will be found that money invested in well-secured ground rents yields a lower rate of interest than money invested in short leasehold or small cottage property.

The rate per cent. will be found to vary with different kinds of property, with the same description of property at different times and in different parts of the country. The valuer should make careful notes of actual sales and lettings with which he is personally concerned as well as those reported in the professional papers, and apply this general knowledge to particular cases with which he is called upon to deal.

#### RATE PER CENT. IN FREEHOLD PROPERTIES

In considering freehold investments we may divide them as follows :—

- (a) Agricultural land.
- (b) Accommodation land.
- (c) Building land or unsecured ground rents.
- (d) Secured ground rents.
- (e) Rack rents.

**Agricultural Land.**—Under agricultural land are included farms, farmhouses, and buildings, and any land where the income depends upon the cultivation of the soil. Agricultural land is considered a good investment; the income may fluctuate, but it is never likely to suddenly fall off. There is a steady demand for

such property, and if it is without a tenant it may be worked by a manager, so that the income does not entirely fail as in the case of an empty house. Thus the yield obtained from freehold agricultural land is at a low rate, and such property may generally be valued on the  $3\frac{1}{2}$  or 4 per cent. table.

**Accommodation Land.**—Accommodation land is fit as a rule for agricultural purposes, but has also a special value, generally dependent upon its position. It is used for market gardening, grazing, cricket, tennis, etc. The rent obtained depends entirely upon the demand and supply of such land in the neighbourhood, but runs considerably higher than that of agricultural land. The security, however, is not so good, as the demand for the special purpose is liable to fall off at any time, and an agricultural rent only will then be obtainable. Such property may generally be valued on the 4 per cent. table.

**Building Land (Unsecured Ground Rents).**—Land which is in such a position as to be suitable for building purposes will naturally be greatly increased in value by reason of that fact. The owner may build or let the land on building leases, in which latter case he obtains not only a rent during the term of the lease, but at the end of the term he takes possession of the houses, etc., built by the lessee. It must be remembered, however, that the source of any income from the land is the rents of the houses when erected and let to tenants, and if the houses let badly the security is not good. If the land can profitably be developed at once it is said to be ripe, and may be valued on the 5 per cent. table. If some time must elapse before the land can be built on to the best advantage, it is said to be unripe, and the 5 per cent. table may be used but the capital sum deferred for a sufficient number of years to allow the income to mature. If the roads, etc., are not laid out, after multiplying the estimated ground rents by the years' purchase, it is necessary to deduct such part of the cost of development as is borne by the freeholder before he can obtain his ground rents.

**Ground Rents (Secured).**—Secured ground rents, that is to say, ground rents secured on land where the houses or buildings are erected, are a very popular form of investment. The

security is very good, as in the event of the lessee not paying the ground rent, the ground landlord can obtain it from the tenant in occupation, or can distrain upon his goods upon the premises, or as a last resource has a lien upon the land and building. The security thus depends largely upon the ratio between the ground rent and the rack rent. An average ground rent, in the case of house property, is about one-fifth of the rack rental, and it is then said to be five times secured. Where the land value is very high, as in the City of London or Westminster, the ground rent might be a much larger proportion than this, and yet be considered as a very good security, owing to the rapidity with which the value of land is increasing in these districts. In the case of ordinary house or shop property, freehold ground rents may be valued on approximately a  $4\frac{1}{2}$  per cent. table.

Ground rents in fairly large parcels are more sought after by the general investing public than those offered in smaller lots, and they are largely favoured by banks, insurance companies, and other large corporations which require investments giving a better yield than Government stocks, although not so quickly realisable. On the other hand, however, the owners of individual leases will often give high prices for the ground rent on the same property in order to convert their interest into a freehold. I have taken out from the "Estates Gazette Yearbook of Auction Sales" the prices obtained for ground rents with 60 years to 99 years to run in London and the suburbs in recent years, and they average as in the table below. Those producing an income of £50 per annum or over are separated from those offered in smaller parcels. It will be seen that the larger lots fetch considerably more than the smaller ones, and that the range of price is greater.

It will be seen from the tables given below that the yield has been gradually increasing of late years, or to put it the other way, the selling prices have been falling.

The price of ground rents, especially those offered in large parcels, varies to a great extent with the state of the money market, and the second table below shows the average price and yield of Consols compared with that of ground rents of £50 and over.

# 10 VALUATION OF REAL PROPERTY

*Years' purchase acquired at auction sales for freehold ground rents with 60 to 99 years unexpired in London and adjoining suburbs.*

Year.	Income under £50.	£50 and over.	All Values.
1892	24·11	25·19	24·89
1893	22·35	24·67	23·96
1894	24·38	24·90	24·75
1895	26·05	27·77	27·20
1896	27·23	28·57	28·23
1897	27·44	28·75	28·34
1898	27·35	29·46	28·92
1899	27·41	28·77	28·49
1900	24·86	26·51	25·92
1901	24·88	26·03	25·43
1902	25·74	25·94	25·89
1903	24·86	25·13	25·02
1904	24·10	25·37	25·00
1905	24·58	24·85	24·71
1906	23·82	24·85	24·50
1907	23·37	24·18	24·02
1908	22·22	23·48	23·22
1909	22·53	24·51	24·00
1910	22·47	23·31	23·09
1911	21·07	22·75	22·65
1912	21·19	21·92	21·66

*Comparison of prices of Consols and freehold ground rents and of the yield per £100 invested.*

Year.	Consols, Average Price per Cent.	Ground Rents £50 and over, Years' Purchase.	Yield per £100 Invested.	
			Consols.	Ground Rents.
	£		Per Cent.	Per Cent.
1892	96 $\frac{3}{4}$	25·19	2·84	3·97
1893	98 $\frac{1}{2}$	24·67	2·79	4·06
1894	101	24·90	2·72	4·02
1895	106 $\frac{1}{8}$	27·77	2·59	3·60
1896	110 $\frac{1}{4}$	28·57	2·48	3·50
1897	112 $\frac{3}{4}$	28·75	2·45	3·48
1898	111	29·46	2·48	3·39
1899	106 $\frac{7}{8}$	28·77	2·57	3·48
1900	99 $\frac{3}{4}$	26·51	2·76	3·77
1901	94 $\frac{1}{2}$	26·03	2·67	3·84
1902	94 $\frac{3}{4}$	25·94	2·66	3·85
1903	90 $\frac{3}{4}$ *	25·13	2·76	3·98
1904	88 $\frac{1}{2}$	25·37	2·83	3·94
1905	89 $\frac{3}{4}$	24·85	2·78	4·02
1906	88 $\frac{1}{4}$	24·85	2·83	4·02
1907	84 $\frac{1}{2}$	24·18	2·97	4·14
1908	86 $\frac{1}{2}$	23·48	2·90	4·26
1909	84	24·51	2·93	4·08
1910	81 $\frac{1}{2}$	23·31	3·08	4·29
1911	79 $\frac{1}{2}$	22·75	3·15	4·39
1912	76 $\frac{1}{2}$	21·92	3·28	4·56

\* Rate reduced from 2 $\frac{3}{4}$  to 2 $\frac{1}{2}$ , the first dividend at the lower rate being paid on 5th July 1903.

It will be seen that the yield from ground rents is in each case about 1 to  $1\frac{1}{4}$  per cent. greater than that of Consols, while the two classes of security fluctuate in much the same manner.

What has been said above refers to land let on building leases where the reversion to the rack rental does not fall in for a very long period. Building leases are generally granted for 99 years, but on many of the large estates in London much land is now let for terms as short as 80 years. Leases for 999 years are also common in some districts. Where the lease has 60 years or longer to run, the value can generally be obtained by treating the ground rent as a perpetual net income; but where the term is shorter, or where the ground rent is very small compared with the rack rental, it will be necessary to value separately the ground rent for the term of the lease, and the reversion to the rack rental after that date, and to add these two amounts together. For example, if a plot of land is let at £10 on a 99 years' lease, having 20 years unexpired, and the net rack rental is estimated at £150, we must value an income of £10 for 20 years, and add to it the value of an income of £150 in perpetuity deferred 20 years.

**Rack Rents. Ordinary Houses.**—In the case of rack rents the range with regard to the rate per cent. of interest to be allowed in calculating the capital value is more difficult to determine than in the case of the investments already considered. It depends, generally, upon the suitability of the houses to the locality, whether they let well, the age and condition of the buildings, and whether there is a tendency for rents to rise or fall in the neighbourhood. For example, if the property is fairly new and well let, and similar to older property in the neighbourhood which has retained its letting value, the security may be considered as good. On the other hand, the property may be old or costly in management, or the building of undesirable factories near by may have depreciated its value, and so on. The value of a large number of London houses has been considerably reduced within the last few years, owing to improvements in the means of transit between the centre and outlying districts, which has induced a large number of people to live farther out. The building of a large number of flats has also had a great effect. Thus,

many houses formerly let to good tenants at £40 to £80 per annum are now sublet in floors, and in the case of others which formerly let at £30 to £60, it has been found necessary to reduce those rents to the extent of £5 to £10, or even more. In valuing ordinary freehold houses the standard table taken is the 5 per cent. table. Where the property lets badly it may be necessary to allow  $5\frac{1}{2}$ , 6, or even a higher rate.

**Large Houses and Cottage Property.**—Large houses, which are more limited in demand, and small cottage properties, which are difficult in management, will generally require a higher table.

Shop properties may, as a rule, be dealt with on the 5 per cent. table; with a lower table for City and West End properties, where the value is increasing, and a higher table for small suburban property. It will be seen later that special care is necessary in these cases in fixing the annual value to be multiplied by the years' purchase.

**Public Houses, etc.**—In the case of public houses, beer houses, hotels, etc., the value as a rule is greatly increased by reason of the licence to sell intoxicating liquors. These premises are of especial value to brewers, who are able to conduct them themselves through a manager, or to let them with a stipulation that all beer, etc., shall be purchased from them. The competition of brewers, then, who are able to secure the trade and thus make an extra profit, must be taken into account by the valuer. The number of licences being limited, these properties are well secured. They are, as a rule, valued upon an estimate of net profit based on the trade which can be done. A fair annual rent is thus estimated, and the 4 or 5 per cent. table taken for the year's purchase in the case of freeholds. Below is given a valuation of a freehold commercial hotel in the main street of a provincial town, which will illustrate the method adopted. The premises are in an important position, are freehold, and have been built about twenty years, and the trade is entirely free. The accommodation comprises: large commercial room, coffee-room, smoking-room, one other large sitting-room, two public dining or assembly rooms, billiard-room, three bars, forty-eight bedrooms,



four bath-rooms, extensive cellarage, well fitted kitchens, and ample offices. It is considered that the present trade can be maintained, and probably increased, under capable management:—

*Valuation of a Freehold Commercial Hotel*

*Receipts.*

Hotel takings	-	-	-	-	-	£2,425
Hotel bar takings	-	-	-	-	-	625
Public bar takings	-	-	-	-	-	1,222
Billiard-room	-	-	-	-	-	152
Hotel omnibuses	-	-	-	-	-	185
					—	£4,609

*Expenditure.*

Net payments—

Beer and ale	-	-	-	-	-	£650
Wines and spirits	-	-	-	-	-	301
Minerals	-	-	-	-	-	51
Provisions	-	-	-	-	-	702
Tobacco, cigars, and cigarettes	-	-	-	-	-	58
					—	1,762

Gross profits	-	-	-	-	-	£2,847
Wages	-	-	-	-	-	£480
Gas and coal	-	-	-	-	-	120
Licences, rates, taxes, and water	-	-	-	-	-	365
Stable and 'bus expenses	-	-	-	-	-	91
Sundries	-	-	-	-	-	360
Repairs and depreciation of premises	-	-	-	-	-	75
Ditto, furniture and fittings	-	-	-	-	-	100
Allow for interest, etc., on tenant's capital, say 15 per cent. on £4,000 = £600, and for management, say	-	-	-	-	-	800
					—	2,391

Net rental value	-	-	-	-	-	£456
Perpetuity on 5 per cent. table Y.P., say	-	-	-	-	-	20
Value of freehold	-	-	-	-	-	<u>£9,120</u>

It is usual for the purchaser to take the furniture, fittings, and stock at a valuation.

Before dealing with years' purchase in the valuation of leasehold interests, it will be well to indicate the manner in which the net annual income is arrived at, and to give some examples of valuations of freehold property.

#### NET INCOME AND EXAMPLES OF FREEHOLD VALUATIONS

**Agricultural Land and Accommodation Land.**—The rent of a farm is in the long run determined by the balance of the farmer's income over his expenditure, after allowing him a fair remuneration for his time and skill, interest on capital and profit of working. Such an estimate could be made by supposing an average tenant, and calculating the average value of the crops which he would grow over a long series of years, and deducting therefrom the expenses of working, etc. This method, however, presents very many difficulties, and the usual practice is to value the land as it stands, at so much per acre.

To value a farm properly it is necessary to have a good knowledge of agriculture and farm management under varying conditions, and it is only possible here to indicate the chief points which should receive the surveyor's attention. It is well to look into the rents which the farm has borne in the past, as well as those of neighbouring holdings. These rents, to the experienced man, will be a good check on his valuation, although he will make due allowance for the abilities and amount of capital of the various tenants, as well as for the class of the landlord. In making his valuation, the surveyor should make a careful survey of the farm, noting the character and condition of each enclosure and of the buildings. It is usual to fix a value for each field, having due regard to the suitability of the home-stead and farm buildings for the holding. The principal points influencing the value of a farm are :—

1. Position—nearness to market town, railway, and river.
2. Character of soil, relative proportion of arable and pasture land and size of enclosures.
3. Special crops, hops, fruit trees, etc.
4. Aspect.
5. Are fields fairly level ; or, on the other hand, sufficiently hilly to influence expense of working.

6. Suitability and situation of homestead and farm buildings.
7. Water supply.
8. General condition of farm buildings, gates, fences, ditches, etc.
9. Presence or absence of woods, plantations, and state of game.
10. Number and condition of stock.
11. Supply and price of labour.
12. Supply of labourers' cottages.

**Outgoings.**—Having estimated the fair gross rental, it is necessary to ascertain what are the landlord's outgoings. If possible, actual figures should be ascertained for three or four years and averaged. The outgoings may include some or any of the following :—

Tithe rent-charge.

Land tax.

Special sewer rate or embankment rate.

Repairs and maintenance and insurance.

Allowance for empties, management, and collection.

Tithe rent-charge is payable by the owner under the Tithe Act, 1891, and land tax is payable by the owner, unless the tenant has covenanted to bear it. Sewer rates and embankment rates are levied by special commissioners to cover the cost of works for protection of lands against floods, etc. If the repairs are carried out by the landlord 1 to 2 per cent. should be allowed on the capital value of all buildings, or say 10 to 12½ per cent. on the annual value of the homestead, and 12½ to 15 per cent. on the annual value of cottages, with an allowance for repair of gates, fences, etc.

An estimate must be made of any sum which the landlord will have to expend on repairs, etc., in the near future; and this should be deducted from the sum arrived at by multiplying the net income by the years' purchase.

### *Example*

What is the fee-simple value of a farm of 102 acres recently let on a yearly tenancy at £120 per annum, the landlord repairing and paying insurance? Tithe rent-charge amounted last year to

# 16 VALUATION OF REAL PROPERTY

£5. 8s., and land tax, payable by the landlord, to £1. 11s. 6d. The property is in good condition, and is being well farmed, and it is considered that the present rent will be maintained.

Rent on lease	-	-	-	-	-	-	-	£120
Deduct—							£ s. d.	
Repairs, etc., $7\frac{1}{2}$ per cent.	-	-	-	-	-	9	0 0	
Tithe	-	-	-	-	-	5	8 0	
Land tax	-	-	-	-	-	1	11 6	
								16
Net income	-	-	-	-	-	-	-	£104
Perpetuity, take Y.P., say	-	-	-	-	-	-	-	28
Value of freehold	-	-	-	-	-	-	-	<u>£2,912</u>

## Example

What is the value of a freehold enclosure of 5 acres 3 poles, with shed, at present let to a butcher for grazing at £15 per annum, on a yearly tenancy? Land tax is redeemed. The building requires an expenditure of £20. If this sum is expended the present tenant has offered a rent of £20 per annum, which rent it is considered can be maintained. The tenant repairs the hedges.

Yearly rent when repairs are carried out	-	-	-	-	-	-	-	£20
Deduct for annual repairs to shed and empties,								
say	-	-	-	-	-	-	-	2
Net annual income	-	-	-	-	-	-	-	£18
Perpetuity on 4 per cent. table, Y.P.	-	-	-	-	-	-	-	25
								<u>£450</u>
Deduct immediate expenditure on buildings	-	-	-	-	-	-	-	20
Value of freehold	-	-	-	-	-	-	-	<u>£430</u>

**Building Land (Unsecured Ground Rents).**—In order to estimate the ground rents which will be obtainable from a building estate, the surveyor must first determine the best way to lay out the land, so as to obtain the maximum of income in ground rents, with the best security, and the minimum of expense in

making roads, sewers, etc. The first thing is to settle on the size and style of houses and the amount of land required for each. Great care is necessary in making the plan. The expense of developing will depend upon the length of roadway and the position, shape, and level of the land. Before the plots can be let, the roads must be cut and the plots staked, and where there is a drainage system, before building is started the sewers must be laid to the satisfaction of the local authority. The roadways are sometimes made up by the freeholder, while in other cases all the work is done by the lessee. In the neighbourhood of London, however, it is usual for the freeholder to make the roads roughly and to put in the sewer, and the final making up and flagging or otherwise paving the paths is carried out by the local authority at the expense of the frontagers after the houses are built.

Alderman Thompson in his book on Housing shows an estate of  $4\frac{3}{4}$  acres developed in two ways. The same ground rent is obtainable from the same number of houses, viz., seventy-five in each case. In one case, however, there is 1,555 ft. of roadway and sewers, and in the other 1,130 ft., the surplus area in the latter case being used for a recreation ground. The cost of making up a 40-ft. roadway with sewers laid averaged in this case about £1. 1cs. to £2 per lineal foot.

Another illustration of this point was furnished in the case of the Sheffield Cottage Exhibition in 1907. There was a competition for planning the site of 24 acres, and Mr E. M. Gibbs, F.R.I.B.A., estimated the cost of making roadways and sewers in the cheapest plan at £9,000, and in the dearest at £16,000, the same number of houses being provided for in each case. When it is mentioned that the land was valued at only £4,800, the importance of a good plan will be fully realised.

Having made his plan, the surveyor can estimate the number of houses which can be built, and the total rent at which they will let. After allowing the builder a fair return, the ground rents which the property will bear can be estimated. Where there are other developed estates in the neighbourhood, it will generally be easy to estimate the ground rents by comparison.

After multiplying the estimated ground rents by the years' purchase, it is necessary to deduct the freeholder's cost of developing, including the surveyor's and legal expenses. The sum arrived at by these deductions must be deferred sufficiently long to allow

for the development and building. It is usual to allow the lessee one or two years at a peppercorn rent to give him time to build and let or sell his houses. Lastly, an allowance must be made for interest on capital, profit of development, and contingencies, and the balance will give the price at which the estate should sell.

An example of a valuation of a building estate on these lines is given below :—

The estate consists of 46 acres in an outlying London suburb, and is at present used for agricultural purposes. An electric tramway connecting with the London system passes close to the estate, and the railway station, affording a good service of trains to the City, is within half a mile. The estate is bounded on the north and south by good roads, and there is a gentle slope towards the south. The main sewer and surface drain, as well as water and gas mains, are laid along the road bounding the estate on the south. The pressure in the water main is sufficient to give a constant supply all over the estate. The district is a good residential one, and there is a demand for small houses and cottages, and a few shops can advantageously be built fronting the two existing roads.

The scheme of development requires 8,250 ft. of 40-ft. roadway, and will provide in all 14,200 ft. of building frontage. It is estimated that this will provide plots for 55 shops with a frontage of 1,110 ft., and letting at rents of £40 to £60 each; 285 villas with a frontage of 7,600 ft., and letting at rents of £30 to £40 each; and 302 cottages with a frontage of 5,490 ft., and letting at rents of 6s. to 8s. per week each.

Ground rents when fully let—

55 shop plots, total rack rents	£2,325.	
Ground rents estimated at	- - -	£482
285 villa plots, total rack rents	£9,200.	
Ground rents estimated at	- - -	1,750
302 cottage plots, total weekly rents per annum, £5,080.		
Ground rents estimated at	- - -	575
Total	- - -	<u>£2,807</u>
Carry forward	-	£2,807

Brought forward	-	£2,807
Perpetuity on $4\frac{1}{2}$ per cent. table Y.P.,		
say	- - - - -	22.22*
		<hr/>
		£62,372
Defer four years on same table to allow for de-		
velopment and building (table 2), Y.P.	-	0.839*
		<hr/>
		£52,330

(Four years allowed as rough average—some of the plots will be productive in two years, others not for six years or longer.)

Allow for levelling, rough-making		
roads, sewerage, etc., 8,250 ft. at		
£1 per foot run	- - - -	£8,250†
Expenses of development, legal and		
surveyor's fees, etc., say 5 per		
cent. on £62,372	- - - -	3,119
	<hr/>	11,369
		£40,961
Allow purchaser say 20 per cent., for interest		
on capital, profit, and contingencies	- - -	8,192
		<hr/>
		£32,769

Value of estate, say £32,500, or £700 per acre.

**Ground Rents Secured.**—In the case of secured ground rents there are no deductions to be made in obtaining the net income. The lessor has the reversion to the rack rentals at the end of the term, but where this is very long, for example, 60 to 80 years unexpired, the ground rent may be treated as an income in perpetuity.

\* Inwood's "Tables" (1910 Edition, p. xxxvi.) show straight away the years' purchase for a perpetuity deferred any number of years, but the two operations are here shown separately in order to make clear the several steps in the valuation. In this case  $22.22 \times .839 = 18.64$ , which is approximately the figure given in Inwood.

† The lessees will have to pay the local authority for finally making up the roadways and footpaths, the usual figure in Greater London being about 12s. 6d. to 15s. per foot frontage.

*Example*

What is the value of the ground rents in the previous example after all the houses are built?

Ground rents - - - - -	£2,807
Secured on rack rentals of £15,335 (excluding one-fourth of weekly rentals to allow for rates).	
Perpetuity on $4\frac{1}{2}$ per cent. table Y.P., say -	22.22
	<hr/> £62,372

**Rack Rents.**—The rent in the case of medium and small houses, shops, and cottages is, as a rule, easily estimated by comparison with that obtaining with regard to other more or less similar properties in the neighbourhood. The rent actually paid by a late tenant or a sitting tenant may or may not be a safe one to take, as the rent may have been fixed some years back, and the locality may have altered considerably since. Special care must be taken in the case of shops, as rents paid by old tenants are often much in excess of the market value. Thus, a tradesman may take a lease for seven years, and at the end of that time, when the tenant has established a connection in the neighbourhood, the landlord is often able to extract an extortionate rent from him for a renewal of the lease. If other shops are built close by, these inflated rents of the first shops will probably be quickly reduced when leases fall in.

**Deductions.**—Having arrived at a fair rack rental, it is necessary to make the proper deductions to arrive at the net income. Care must be taken to make the deductions only in those cases in which the income of the person whose interest is being valued is, or may be, affected. The items to be deducted are as follows:—

1. *Repairs.*—The allowance for repairs varies considerably. Where the property is let on lease, no deduction has to be made, as the cost is paid by the lessee. In other cases the usual allowance is about 10 per cent. on the rack rental, 5 per cent. for internal and 5 per cent. for external repairs. In weekly tenancies, where removals are frequent, a bigger allowance must be made.



2. *Collection and Management*.—About 5 per cent. on weekly, monthly, and quarterly tenancies,  $2\frac{1}{2}$  per cent. on yearly.
3. *Empties and Bad Debts*.—Allow 5 to 20 per cent.; high in the case of large properties and weekly cottages, etc., where removals are frequent.
4. *Insurance*.—Allow 1s. 6d. per £100 on cost of building, which may generally be taken for this purpose at about ten times the rack rental.
5. *Land Tax*.—Where not redeemed, this tax is payable by the landlord unless the tenant has covenanted to pay.
6. *Rates, water rate, and inhabited house duty* are generally payable by the occupier, except in the case of weekly and monthly tenancies. Where paid by the owner, allow one-fourth to one-third of the total rent.

The following is a summary of the usual deductions, which are generally made in one percentage. Where possible, an average of the last few years' actual payments should be made.

Tenancy.	Repairs.	Collection and Management.	Empties and Bad Debts.	Insurance.	Rates and Taxes.	Total, excluding Insurance.
Lease	Nil.	Nil.	Nil.	Nil.	Nil.	Nil.
3 years' agreement	$\left\{ \begin{array}{l} 5 \text{ per} \\ \text{cent. if} \\ \text{tenant} \\ \text{does} \\ \text{internal} \end{array} \right\}$	$2\frac{1}{2}$ per cent. to 5 per cent.	$2\frac{1}{2}$ per cent.	$\left\{ \begin{array}{l} 1s. \ 6d. \\ \text{per} \\ \text{cent.} \\ \text{on} \\ \text{value} \\ \text{of} \\ \text{build-} \\ \text{ing} \end{array} \right\}$	Nil.	10 to $12\frac{1}{2}$ per cent.
Yearly tenancy	10 per cent.	$2\frac{1}{2}$ per cent. to 5 per cent.	5 per cent.		Nil.	15 to 20 per cent.
Less than yearly	10 to 15 per cent.	5 per cent. to $7\frac{1}{2}$ per cent.	10 per cent.		25 to 33 per cent.	35 to 60 per cent.

Most assessments committees publish a scale of rateable values corresponding to given weekly rents, and the rates can be calculated from this. No deduction is as a rule made in respect of compounding. No deduction is made on account of landlords' property tax (Income Tax, Schedule A), as income tax has to be paid on the return, whatever the investment may be.

*Example*

What is the value of a freehold house recently let to a yearly tenant at £45 per annum, the premises being in good repair?

Yearly rent	-	-	-	-	-	-	-	£45
Deduct for repairs, etc., $17\frac{1}{2}$ per cent.	-	-	-	-	-	-	-	8
								<hr/>
Net income	-	-	-	-	-	-	-	£37
Perpetuity on 5 per cent. table Y.P.	-	-	-	-	-	-	-	20
								<hr/>
Value of freehold	-	-	-	-	-	-	-	<u>£740</u>

*Example*

What is the value of a row of twenty freehold cottages which will let at 8s. 6d. each weekly? They are in bad repair, and require £200 spent on them at once, when they may be expected to let well. Land tax amounts to about £2. 10s. per annum, and the rates, including water, are 7s. in the £.

Total rent—20 cottages at 8s. 6d. each weekly	-	£442	0
Deduct land tax	-	£2	10
Repairs, rates, etc., 50 per cent.	221	0	
			<hr/>
			223 10
			<hr/>
			£218 10
Perpetuity on 6 per cent. table Y.P.	-	-	16.66
			<hr/>
			£3,641 0
Deduct immediate outlay necessary	-	-	200 0
			<hr/>
Value of freehold	-	-	<u>£3,441 0</u>

**Large Residences and Mansions.**—The valuation of large houses and mansions which are rarely let presents great difficulties. In town the great feature is the position, which is reflected in the land value, while in the country the social advantages, sporting facilities, and convenience to railway

stations and town greatly influence the value. If the house is an old one, it will be necessary to consider the value of a new up-to-date residence and the cost of modernising the house in question. The former owners may possibly have spent a large sum of money on the premises, but so far as this was to suit their particular tastes, it cannot be taken into account; or, again, the neighbourhood may have altered in character. The valuer must be particularly guarded in such cases against confusing cost with value.

In London an annual value can be generally gauged by comparison with other properties, but this is frequently not possible in the case of large country mansions. Where these are sold at the same time as a large estate great care may be required in the lotting, as certain parts of the estate may be particularly valuable to adjoining owners, while on the other hand the mansion may be unsaleable without a considerable extent of other property, thus giving the owner the position of a large landowner. Such a property may be in hand for a very long time before a satisfactory sale can be effected.

**City and West-End Properties.**—In the case of properties such as offices, shops, etc., in the City and best parts of the West End, it will sometimes be found, where the premises are old and ill-adapted, that the rack rentals are little greater, or possibly even less, than the annual value of the land as a cleared site. In such cases it will be necessary to look carefully into the possibilities of the land in question, and to take the rack rental for only so long as it may be more profitable to let the existing building than to let the site upon building lease.

### *Example*

What is the value of a freehold shop and offices in the Strand? They are old and ill-adapted to modern requirements. The lease expires shortly, and the present tenants have offered to renew the lease for 14 years at £1,050 per annum. The site (2,050 sq. ft.) would readily let at 10s. per square foot on a 99 years' building lease, one year's peppercorn being allowed.

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*If let on lease—*

14 years at rent of - - £1,050  
 Y.P. on 5 per cent. table 9.9  
 —————  
 £10,395

Reversion after lease—

Ground rent - £1,025

Perpetuity deferred

15 years on  $3\frac{1}{2}$  per  
 cent. table Y.P.

(Inwood, p. xxxiii.) 17.05

———— 17,476

£27,871

*If let for building—*

Ground rent - £1,025

Perpetuity de-  
 ferred 1 year  
 on  $3\frac{1}{2}$  per cent.  
 table Y.P. - 27.6

£28,290

In this case it will probably be profitable to let the site for building at once. The value may be put at £28,000.

### LEASEHOLD PROPERTIES

It must be clearly understood that a leasehold interest (that is, the interest of the lessee) has no capital value where the lessee is paying the full annual value as rent. Thus, if a man takes a house on a 42 years' lease at £200 per annum, and this is the full annual letting value, obviously nobody would pay him any consideration for the lease. Suppose, however, that he builds a motor house and makes other improvements, or that, owing to the development of the neighbourhood, the rental value after a few years becomes £300, then the residue of the lease becomes valuable, and another tenant might be found willing to take an under-lease at £300 per annum, or to buy the lease and pay the £200 per annum rent.

In the same way an owner of land may let it for building purposes on a 99 years' lease at a ground rent. If the lessee builds, he can at any time dispose of his interest, the value being the capitalised value of the rack rent, less the ground rent and any other outgoings.

In valuing leasehold interests we find the net annual income of the lessee, and multiply it by the years' purchase in the tables. The rate per cent. is generally about 1 per cent. more

than in the case of freehold property of the same description. This must only be taken as a rough guide. Thus in some cases, *e.g.*, small cottages in a district where the demand is very great and the supply limited, it may be found that leaseholds are bought to give practically the same rate of interest as freeholds, whilst in London short leases of small properties may require the 7 or 8 per cent. or even higher table.

When a property is said to be *held*, it will generally be the leaseholder's interest which is to be valued; and when it is said to be *let*, we have to look at it from the freeholder's point of view, and value his interest.

### Example

What is the value of a house *held* under a lease for 21 years unexpired at a ground rent of £10 per annum, the net annual value being £50?

Annual value (net)	-	-	-	-	-	-	£50
Deduct ground rent	-	-	-	-	-	-	10
							<hr/>
Net annual income	-	-	-	-	-	-	£40
21 years on 6 per cent. table Y.P.						-	11.76
							<hr/>
							£470
Allow for immediate repairs, say	-	-	-	-	-	-	70
							<hr/>
							<u>£400</u>

### Example

What is the value of a plot *let* at £10 per annum ground rent, the net annual value of the premises being £50?

Ground rent	-	-	-	-	-	-	£10
Perpetuity on $4\frac{1}{2}$ per cent. table Y.P.	-	-	-	-	-	-	22.22
							<hr/>
							Say <u>£220</u>

**Premiums and Profit Rentals.**—In letting property on lease, the lessor may arrange with the lessee for the payment of a sum down at the beginning of the term by way of premium, reducing the rent in proportion. This method gives the landlord greater security. The same position arises where a man has a

profitable lease with some years to run. He may assign his term, in which case, instead of paying an extra rent, the assignee pays the rent under the lease, and gives the original lessee the value of the profit rental in a sum down. The following examples will show how the premium is calculated:—

*Example*

A house worth £300 per annum is being let on a lease for 21 years. The owner requires a premium of £1,000; to what sum must the rent be reduced?

Premium required-	-	-	-	-	£1,000
21 years' lease on 6 per cent. table Y.P.					11.764
Equivalent of premium, per annum	-	-	-	-	$\frac{1000}{11.764} = £85$
Annual rental value	-	-	-	-	£300
Rent should be reduced to £215 per annum.					

The converse of the question would be: A man takes a 21 years' lease of a house at £215 per annum, paying a premium of £1,000. At what rent does he sit? The answer, of course, is £300 per annum. Or the question might be put: What premium should a man pay for a 21 years' lease at £215 per annum of a property worth £300 per annum?

*Example*

What is the value of a lease having 25 years unexpired of a shop held at a rental of £40, but which is let on a yearly tenancy at £75, it being considered that this rent will be maintained?

Rent on yearly tenancy	-	-	-	-	-	£75
Allow for repairs, empties, etc., 17½ per cent.						13
						<hr/> £62
Deduct head rent	-	-	-	-	-	40
						<hr/>
Profit rental-	-	-	-	-	-	£22
25 years on 7 per cent. table Y.P.						11.65
						<hr/>
Value of lease	-	-	-	-	-	<u>£256</u>

**Improved Ground Rents.**—In some cases a man leases a piece of land, and instead of building upon it he holds it for a short time and then sublets it at a higher rent for the full term less a few days. The rent thus obtained is called a leasehold or improved ground rent.

Improved ground rents sell at slightly less than original ground rents equally well secured.

*Example*

What is the value of an improved ground rent of £75 having 75 years to run, secured on five shops let on lease at rents amounting to £350, the original ground rent being £25 per annum?

Improved ground rent	-	-	-	-	-	-	£75
Deduct original ground rent	-	-	-	-	-	-	25
							<hr/> £50
Y.P., 75 years on $4\frac{1}{2}$ per cent. table	-	-	-	-	-	-	21.4
							<hr/> £1,070

**Deferred Interests or Reversions.**—A deferred interest or reversion is an interest, the income from which is not enjoyed at present, but will be at some future time; that is, at the expiration of some other interest. Examples will best show how such interests are valued.

*Example*

What is the present value of a sum of £10,000, payable at the end of 10 years, allowing 3 per cent. interest?

Capital sum	-	-	-	-	-	-	£10,000
Present value of £1 on the 3 per cent. table							
Y.P.	-	-	-	-	-	-	.744
							<hr/>
Present value	-	-	-	-	-	-	£7,440

*Example*

What is the value of an income of £150 per annum for 55 years, deferred 10 years, on the 5 per cent. table?

The value will obviously be equal to an income of £150 per annum for the next 65 years, less £150 per annum for the next 10 years :—

Net income - - - - -	£150
65 years on 5 per cent. table Y.P. -	19.16
10       "       "       "       " -	7.72
55 years' deferred 10 years Y.P. -	11.44
	<hr/>
Value of reversion - - - - -	<u>£1,716</u>

A deferred perpetuity is valued in the same way, but for these cases Inwood's "Tables" give a special table (pp. 95-98, 1910 edition), which shows the Y.P. direct.

*Example*

What is the present value of an annuity of £100 in perpetuity to commence at the end of 6 years, allowing interest on the 4 per cent. table.

Annual income - - - - -	£100
Perpetuity on 4 per cent. table Y.P. -	25.0
6 years       "       "       " -	5.24
	<hr/>
	19.76*
	<hr/>
Present value - - - - -	<u>£1,976</u>

**Premises let at less than Rack Rental, with Reversion to Full Rent at End of Term.**—We will now extend this to the case of an ordinary freehold, or long lease, where the premises are let for a term at a ground rent or other rent less than the rack rent, and where the owner has the reversion at the end of the term to the full rent.

*Example*

What is the value of a freehold house let at a ground rent of £11 per annum for a term having 19 years unexpired, the full net annual value being £58?

Income for next 19 years - - - - -	£11
Ground rent five times secured, 19 years	
on 4 per cent. table Y.P. - - - - -	13.13
	<hr/>
	£144
	<hr/>
Carry forward - - - - -	£144

\* Inwood's "Tables," p. 98, gives the Y.P. 19.75786.



	Brought forward	-	£144
Income after 19 years	-	£58	
Perpetuity on 5 per cent. table Y.P.	20		
19 years	"	12.08	
Perpetuity deferred 19 years Y.P.	—	7.92	
		<u>459</u>	
Value of freehold	-	-	<u>£603</u>

*Example*

What is the value of a shop held for 85 years unexpired, at a ground rent of £18, and recently let on lease for 21 years at £55 per annum, with a premium of £400?

Rent on lease next 21 years	-	-	£55
Deduct ground rent	-	-	18
			<u>Net annual income</u>
	-	-	£37
21 years on 6 per cent. table Y.P.	-	-	11.76
			<u>£435</u>
Remainder of 85 years' (rent = £55 + equivalent of premium).			
Premium of £400 for 21 years on 6 per cent. table = $\frac{400}{11.76} = £34$ per annum.			
Rental value, £55 + £34	-	-	£89
Deduct ground rent	-	-	18
			<u>Net annual income</u>
	-	-	£71
85 years on 6 per cent. table Y.P.	-	-	16.55
21	"	"	11.76
			<u>4.79</u>
			<u>340</u>
Value of shop	-	-	<u>£775</u>

In valuing premises let at a ground rent with a reversion after a period exceeding 60 years to a rack rent, the income can generally be taken as if the ground rent were perpetual, the reversion to the rack rent being ignored. Thus, a house worth £50 per annum net, and let for 75 years unexpired at a ground rent of £10, would be treated as a perpetual income of £10. This of course does not apply when the rack rent is quite out of pro-



*Example*

If in the last example the new lease is at the same rent, viz., £70, what premium should be paid?

The income to be valued here is £35 per annum for 32 years, deferred 10 years.

Annual income	-	-	-	-	-	-	-	£35
42 years on 6 per cent. table Y.P.	-	-	-	-	-	-	15.22	
10	"	"	"	-	-	-	7.36	
							<hr/>	7.86
Premium to be paid	-	-	-	-	-	-	-	<u>£275</u>

**Surrender of Lease for Building Lease.**—The following is an example of an existing lease surrendered in order that the lessee may obtain a long lease and rebuild his premises. A large number of Crown leases have been surrendered in this manner in the neighbourhood of Regent Street during the last few years.

*Example*

A man has a lease of premises in Regent Street, with 15 years to run, at a ground rent of £120 per annum. The net rental value of the existing premises is £550 per annum. The site cleared would be worth £12,000. The lessee wishes to surrender his lease and take up a building lease for 80 years. He is willing to build to the satisfaction of the freeholder. What ground rent should he pay?

A fair ground rent for the cleared site would be $3\frac{1}{2}$ per cent. on £12,000	-	-	-	-	£420
The value of the existing lease is as follows—					
Rental value	-	-	-	-	£550
Deduct ground rent	-	-	-	-	120
					<hr/>
Profit rental	-	-	-	-	£430
15 years, 6 per cent. table Y.P.	-	-	-	-	9.71
					<hr/>
Value of lease	-	-	-	-	£4,175.3
Spread over 80 years—					
80 years on $3\frac{1}{2}$ per cent. table Y.P.	-	-	-	-	26.75
					<hr/>
Ground rent should be reduced by	-	-	-	-	£156
					<hr/>
A fair ground rent for the 80 years would be	-	-	-	-	<u>£264</u>

**Life Interests.**—We now come to interests depending upon the duration of particular lives. Obviously the duration of a particular life cannot be predicted with any certainty. The expectation of life, and the number of people out of 1,000 living of a certain age, who may be expected to live for one year, two years, etc., has often been calculated. These statistics are found in various tables, *e.g.*, the Northampton (1780), Carlisle (1815), the Equitable Society (1834), Seventeen offices (1843), English Experience No. 3 Males (1864), the Actuaries Healthy Males (1869), and Government Experience (1883). The figures in the different tables vary considerably in some cases, and the reader will do well to note the remarks in the introduction to Inwood before deciding which table to use in a particular case. These tables will be found in Inwood and similar works, combined with interest tables, and giving the years' purchase for £1 per annum, etc., during the life of a person of a certain age, etc., and the following examples will illustrate their application:—

*Example*

What is the value of a lease of a farm held during the life of a person aged 53, the net annual value being £120?

Net annual value - - - - -	£120
Life aged 53. Y.P. on Carlisle table at 5 per cent.	
(Inwood, 1910, p. 141) - - - - -	10.89
	<u>£1,307</u>

*Example*

What is the value of a freehold house let during the life of a person aged 46, at £80 per annum, the net annual value being £150?

Net annual income during life of lessee -	£80	
Life aged 46. Y.P. on Carlisle table at		
5 per cent. - - - - -	12.48	
	<u>          </u>	£998
Net annual income after death of lessee -	£150	
Reversion at death of person aged 46.		
Y.P. on Carlisle table at 5 per cent.		
(Inwood, 1910, p. 154), say - - -	7.52	
	<u>          </u>	1,128
		<u>£2,126</u>

Care must be taken to differentiate between leases for the *joint continuance* of two or more lives and leases held for the *longest* of these lives. In the first case the expectation is less than that of either life taken singly, while in the latter case the expectation is longer than that of either life.

*Example*

What is the value of a farm let during the joint continuance of two lives, ages 55 and 70, at £40 per annum, the net annual value being £240?

Net income during joint continuance of two lives	- - - - -	£40	
Lives aged 55 and 70. Y.P. on Northampton table at 4 per cent. (Inwood, 1910, p. 156)	- - - - -	5.13	£205
Net income on death of one person	- -	£240	
Perpetuity on 4 per cent. table Y.P.	- 25.0		
Joint continuance of lives aged 55 and 70, Y.P. as above	- - 5.13	19.87	
			4,769
			<u>£4,974</u>

*Example*

What is the value of a farm held for the longer of two lives aged 35 and 40, the annual value being £120 per annum, using the Carlisle table?

Net income	- - - - -	£120
Lives aged 35 and 40. Y.P. on Carlisle table at 3 per cent., 21.528 (Inwood, 1910, p. 172). This is equal to Y.P. on term certain of 35 years.		
Y.P. 35 years on 5 per cent. table	- - -	16.37
		<u>£1,964</u>

Inwood only gives Y.P. on Carlisle table for longer of two lives at the rate of 3 per cent., but the Y.P. at 5 per cent. can be arrived at as here shown.

*Example*

What is the value of the same interest as in the last example if the Northampton table be used?

Net income	-	-	-	-	-	-	-	-	£120
Lives aged 35 and 40.	Northampton table at 5								
per cent. (Inwood, 1910, p. 171), Y.P., say	-								15.01*
									<u>£1,801</u>

*Example*

A property, the net income from which is £520, is held for the longer of two lives aged 50 and 70. It is desired to add another life aged 20. What premium should be paid?

Net income	-	-	-	-	-	-	-	-	£520
Y.P. lives 50 and 70.	Northampton								
table, 4 per cent. Y.P. (Inwood, 1910,									
p. 171)	-	-	-	-	-	-	-	-	12.32
Y.P. lives 20, 50, and 70.	Northampton								
table, 4 per cent. Y.P. (Inwood, 1910,									
p. 184)	-	-	-	-	-	-	-	-	17.70
									<u>5.38</u>
5.38 is Y.P. on 4 per cent. table for 6 years certain.									
Y.P., 6 years on 6 per cent. table	-	-	-	-	-	-	-	-	4.92
									<u>£2,558</u>

**Sinking Funds.**—Where a lease is purchased, it may be desired to provide for the continuance of the income after the expiration of the lease. For this purpose it is necessary to form a sinking fund either by investing a lump sum at the beginning of the term, or by putting aside a certain amount each year to accumulate with interest till the end of the term. The difference between the present value of a perpetuity and the same income for a term, is the sum which, if invested, would replace the capital (the value of the perpetuity) at the end of the term. Thus, if a man has £5,000 from which he wishes to secure a perpetual income, he can invest this, say, in a perpetuity at 5 per cent.; or he can invest £4,000 in a lease for 33 years returning 5 per cent. interest, and spend the

\* Obtained by taking rather less than half the difference between ages 35 and 35 and ages 35 and 45.

proceeds  $\left(\frac{\pounds 4000}{16} = \pounds 250\right)$ , at the same time investing the other  $\pounds 1,000$  at 5 per cent. interest for 33 years. At the end of this term the  $\pounds 1,000$  will amount to  $\pounds 5,000$ , and he can then invest in a perpetuity giving the same income. If he invests the whole  $\pounds 5,000$  in a lease for 33 years, he will obtain an income of  $\frac{\pounds 5000}{16} = \pounds 312.10s.$ ; supposing he spends the  $\pounds 250$  as before, and puts the balance,  $\pounds 62.10s.$  in a sinking fund at 5 per cent., he will at the end of the 33 years again have his  $\pounds 5,000$ . Thus it will be seen that so long as the same rate of interest is realised throughout, the three modes of investment each give the same income in perpetuity. If, then, his lease returns 6 per cent., and he can invest his sinking fund at 5 per cent., this is a more profitable investment than a perpetuity returning 5 per cent. throughout. If he is unable to invest his sinking fund at as high a rate as 5 per cent., this form of investment, however, may be less remunerative. The following example will make this point clear :—

### Example

A man has a sum of  $\pounds 6,000$  invested at 4 per cent. interest. He has been offered a lease with 30 years to run of premises let for the full term at  $\pounds 400$  per annum net at a price which will enable him to pay all expenses of transfer and re-investments out of his capital of  $\pounds 6,000$ . He will have to form a sinking fund, however, at  $3\frac{1}{2}$  per cent. interest to replace his capital at the end of the term. Will the lease produce a bigger income?

Amount to be replaced in 30 years  $\pounds 6,000$

Sinking fund at  $3\frac{1}{2}$  per cent. Y.P.

(see Table II.) - - - 51.62

Amount to be set aside annually  $\pounds 116\ 5$

Rent under lease - - - 400\ 0

Net income for 30 years  $\pounds 283\ 15$ , or 4.73 per cent.

Income under original scheme  $\pounds 240\ 0$

Benefit for 30 years - -  $\pounds 43\ 15$  per annum.

In the ordinary tables used for capitalising leasehold interests it is assumed that any sinking fund can be invested at the same

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rate of interest as is taken in the case of the lease. This is sometimes raised as an objection to the use of these tables for this purpose, but the use of the single interest table must be taken as set off by the fact that a higher table is taken in the case of leaseholds than in that of freeholds. Thus if the fee simple of a property is capitalised on the 5 per cent. table, and the years' purchase for a lease of the same property is taken also from the 5 per cent. table, the objection may be a valid one. In such a case, however, the lease will probably be taken as a 6 per cent. investment.

Suppose a property worth £100 per annum net, and compare the freehold value on the 5 per cent. table with a leasehold interest in a property giving the same net income for say 50 years at the 6 per cent. table, and sinking fund at 3 per cent. or  $3\frac{1}{2}$  per cent.

### Freehold—

Net income	-	-	-	-	-	£100
Perpetuity at 5 per cent. Y.P.	-	-	-	-	-	20
						<u>£2,000</u>

### Leasehold—

Net income	-	-	-	-	-	£100
50 years at 6 per cent. Y.P.	-	-	-	-	-	15.76
						<u>1,576</u>

### Sinking fund—

Amount to invest	-	-	-	-	-	£424
Amount in 50 years at 3 per cent. Y.P.	-	-	-	-	-	4.38
						<u>£1,857</u>

Thus the investor at the end of 50 years has only a capital of £1,857 as against £2,000 in the case of the perpetuity, leaving out of account depreciation or appreciation of the property in question.

If, however, the sinking fund is invested at  $3\frac{1}{2}$  per cent., the Y.P. is 5.58 and the amount at the end of 50 years is £2,366 as against £2,000 if the perpetuity is purchased.

It would appear from the above that the poorer the property and the higher the rate of interest allowed, the greater should be the difference between the freehold and leasehold tables. This, however, is set off by depreciation of the property, and it may, I think, be concluded that the rough rule of one per cent. difference may be taken as a very fair one in most cases.



## CHAPTER II

### CONSTRUCTION OF VALUATION TABLES

**Table I. Present Value of £1 per annum.**—To find the present value of an annuity of £1 per annum for any number of years at a given rate per cent.

Let  $i$  = the interest on £1 for 1 year.

Then £1 amounts to  $£1 + i$  at the end of 1 year.

If this sum is invested for another year it amounts to  $(£1 + i)^2$ , and so on (see Table II. on next page).

The present value of £1 at the end of 1 year, then, is  $\frac{1}{1+i}$ .

The present value of £1 due at the end of 2 years is  $\frac{1}{(1+i)^2}$ , and so on.

Let  $1+i$  be represented by  $r$ .

Then the present value of an annuity due at the end of 1 year, 2 years, and 3 years =  $\frac{1}{r} + \frac{1}{r^2} + \frac{1}{r^3}$ .

Similarly, if the term be  $n$  years, the value of the annuity, which may be represented by  $Y$ , is as follows:—

$$Y = \frac{1}{r} + \frac{1}{r^2} + \frac{1}{r^3} + \dots + \frac{1}{r^n} \quad - \quad - \quad - \quad (1)$$

Multiply both sides of this equation by  $r$ ,

$$\text{then} \quad rY = 1 + \frac{1}{r} + \frac{1}{r^2} + \dots + \frac{1}{r^{n-1}} \quad - \quad - \quad (2)$$

Subtract the first equation from the second,

$$\text{then} \quad Y(r-1) = 1 - \frac{1}{r^n}$$

$$\therefore Y = \frac{1 - \frac{1}{r^n}}{r-1};$$

but

$$r = 1 + i$$

$$\therefore Y = \frac{1 - \frac{1}{r^n}}{1 + i - 1} = \frac{1 - \frac{1}{r^n}}{i} = \frac{r^n - 1}{i \times r^n};$$

but

$$i = \frac{\text{rate per cent.}}{100};$$

Call rate per cent.  $p$ ,

then

$$Y = \frac{100}{p} \left( \frac{r^n - 1}{r^n} \right).$$

From this formula the present value of any annuity can be calculated, and Inwood's and other tables have been compiled from it.

For example, find the value of an annuity of £1 per annum for 12 years at 5 per cent.

$$\frac{100}{p} = 20$$

$$r = 1.05$$

$$n = 12$$

$$\log 1.05^{12} = 0.0211893 \times 12 = 0.2542716$$

$$1.05^{12} = 1.79586$$

$$1.05^{12} - 1 = 0.79586$$

$$\log 1.05^{12} - 1 = 1.900837$$

$$\log 20 = 1.301030$$

$$\log 20 \times (1.05^{12} - 1) = 1.201867$$

$$\log 1.05^{12} = 0.254272$$

$$\log 20 \times (1.05^{12} - 1) \div (1.05^{12}) = \underline{0.947595}$$

This is the log of 8.863, which is the years' purchase given in Table I. on pp. 328-329.

**Table II. Amount of £1 at End of Given Term.**—To find the amount of £1 at the end of a given number of years at a given rate per cent.

£1 amounts in 1 year to  $1 + i$ .

At the end of the second year £1 amounts to—

$$1 + i + i(1 + i) = (1 + i)^2.$$

At the end of the third year £1 amounts to—

$$(1+i)^2 + i(1+i)^2 = (1+i)^3.$$

Similarly at the end of  $n$  years £1 amounts to  $(1+i)^n$ .

And the table can be worked out from this formula by means of logs.

*Example.*—Find the amount of £1 at 4 per cent. at the end of 12 years.

$$1+i=1.04$$

$$n=12$$

$$\log 1.04 = 0.017033$$

$$\log 1.04^{12} = 0.204396$$

This is the log of 1.601, which is the figure given in the Table II. on p. 330.

**Table III. Amount of £1 per annum at End of Given Term.**—This table may be obtained from Table II. by addition.

Thus, taking the 3 per cent. table, if to the initial payment of £1 we add 1.030, the amount of £1 in one year, we get 2.030; which is the amount of £1 per annum immediately after the second annual payment has been made. Adding to this amount 1.061 we get 3.091, which is the amount of £1 per annum immediately after the third payment has been made (see p. 331), and so on.

**Table IV. Present Value of £1 at End of Given Term.**—The figures in this table are obviously the reciprocals of those in Table II. Thus by referring to Table II., we find that

£1 invested at 6 per cent. for 21 years amounts to £3.4. Then the present value of £1 deferred for 21 years at 6 per cent. equals

$$\frac{1}{3.4} = .294, \text{ which is the figure given in Table IV. on p. 332.}$$

### CHAPTER III

## VALUE OF LAND AND BUILDINGS SEPARATELY

**Value of Building Land.**—It is often necessary to value land and buildings separately, or to value vacant plots of land for sale or letting on building lease. The method in which the value of a building estate is arrived at has been dealt with on pp. 16-19 *ante*. The valuer will, however, acquire in the course of his experience a very good idea of land values in localities with which he is acquainted, which will act as a check on the figures obtained. A note should be made of the prices at which building estates are sold from time to time, and these will act as an indication of the values obtaining in the particular localities.

With regard to building plots in town, there are many factors entering into consideration. They may be summarised as—

1. Position.
2. Frontage and relative proportion of front and back land.
3. Shape of the plot.
4. Fall of the land and depth of existing sewers.
5. Building restrictions.
6. Dominant lights and other easements, general building schemes, etc.
7. Nature of soil.

The heading of position includes many factors. First, there is the question of the district, whether it is in the centre of the town or the outskirts, whether close to railway station, etc., or not. Then comes the consideration of whether the land fronts on a main thoroughfare or only on a side street; whether it is suitable for shop and business premises or for fair sized houses, or only for cottages, etc. Then there is the question of the position in the particular street, and whether the plot is a corner one or not. In an important street it will often be found that one end is more valuable than the other, and that one side is better than the other.

In a street like the Strand, the value varies considerably, and going from one end of the street to the other, first one side would be the better for some distance, then the other, and so on. A corner, while desirable for a shop, is not always so for a house, as the privacy is less and the expense of roads, etc., if not already made, is much heavier. A corner plot suitable for shop premises, with the possibility of good show windows, will commonly realise half as much again as a plot of similar size and shape but not at a corner. The width of the roadway is also an important factor, the most valuable plots for shops often being in bottle-neck thoroughfares, while for residential purposes a wide road is generally desirable.

The depth of the plot is important. Thus, if it is required for the building of good class houses, a plot of 120 ft. deep may be worth three times as much as one with the same frontage and only 60 ft. deep. If, however, the plot is in the main road and suitable for shop purposes, 60 or 80 ft. is generally sufficient depth, and this plot will probably realise two-thirds as much as one of double the depth; that is to say, the back land from 60 to 120 ft. from the road may be taken at about one-half the value of the front land or even less. If the plot is still deeper, the back land loses the advantage of nearness to the main road, and will only be worth a comparatively low figure, according to the use to which it can be put. If there is a back entrance the value of the rear part will be governed by the value of land in the roadway where the back entrance is situated.

The shape of the plot, the nature of the soil, the fall of the land and depth of existing sewers will influence the cost of building and the user of the plot. The question of building restrictions and dominant lights, etc., will influence the demand for the land and the rents which can be made out of the buildings to be erected. If the plot is one on a building estate there may be general covenants restricting the user which may influence the value.

Sufficient has been stated to show that great care must be taken in comparing one plot with another, even when they are in the same street and only a short distance one from the other. The surveyor, however, should not fail to note the prices and ground rents of all properties coming into the market, which may be useful for comparative purposes.

The price of building estates is generally quoted at so much per acre, and smaller plots at per foot frontage, or in London at per square foot, and in the provinces at per square yard. Where

building land is cut up and the roads made and sewered, and the land is sold in plots, these will, of course, realise a much higher price per acre than that obtained for a large estate where the development has to be undertaken and land given up for roadways.

**Valuation of Buildings.**—It is often necessary, *e.g.*, for purposes of compensation and rating, to form an estimate of the cost of erecting a building similar to an existing building if built at the present time. The best method of obtaining an accurate estimate, and the method adopted in the case of all large buildings before erection, is by taking out from detailed plans the quantities of the various kinds of material and labour and pricing each item separately. This is a lengthy operation, and is the business of the quantity surveyor, who has special knowledge and training for the purpose, and no attempt can be made to describe it in a work of this description.

A very fair estimate may, however, be made by the valuer by other methods, such as cubing, pricing for square foot of floor area, or per unit of accommodation.

In cubing, the usual method is to take the measurements of the building along the length and breadth outside the walls, and the height, from the bottom of the footings to halfway up the roof. Outbuildings and cheaply built annexes must be taken separately at a lower figure, while factory chimneys, towers, etc., must also be separately estimated. Abnormal foundations, boundary walls, special drainage, etc., must also be specially allowed for. It must be borne in mind that the cost of work done in large quantities is much less than that done in small quantities, the difference amounting to as much as 20 or 30 per cent. in some cases. Care must be taken, in arriving at a price per foot cube, to compare with buildings as much as possible of the same construction and with the same amount of voids. It must also be borne in mind in comparing with buildings of not quite recent date, that the cost of buildings of all classes has very much increased during the last twenty years, owing to the increase in the price of both labour and materials.

A list is given below of approximate figures per foot cube, etc., with some examples of actual buildings erected within the last few years. To the price of the building must be added architect's, etc., charges, generally about 5 per cent. on the cost of the building. This does not include taking out quantities for builders' estimates.

ALMSHOUSES. 6d. to 8d. per foot cube.

ARTIZANS' DWELLINGS—

London, 8d. to 9½d. per foot cube ; £65 to £100 per room.

Country, 6½d. to 8d. per foot cube ; £60 to £90 per room.

Westminster City Corporation, Workmen's Dwellings,  
Regency Street—

Hard pressed red Leicester bricks, and artificial stone dressings. 1- to 4-room tenements. 344 tenements of 793 rooms on 6 floors. 8.67d. per foot cube ; £74. 10s. 6d. per room.

London County Council—

Boundary Street scheme. 9d. per foot cube ; £107 per room.

Bermondsey Metropolitan Borough Council—

Model dwellings on balcony system, 8¾d. per foot cube ; £83 per room.

Chelsea Borough Council. Sir Thos. Moore Buildings—

5 blocks of 6-storey houses. 8¾d. per foot cube ; £89 per room.

Liverpool Corporation. Hornby Street (1906)—

Grey brick, with red brick facings. 1 to 4 rooms. 3 floors. Separate scullery and w.c. to each tenement. 10s. per square foot of floor area ; £85 per room.

East End Dwellings Company, Old Ford Buildings (1904)—  
9d. per foot cube ; £80 per room.

*See also under Cottages and Lodging-houses.*

ASYLUMS (LUNATIC), including wards, administration buildings, chapel, hospital, mortuary, laundry, workshops, roads, etc.,  
7d. to 10d. per foot cube ; £200 to £400 per inmate.

	Date.	Patients.	Rate per Bed.
Hartwood, Lanark, Pavilion Type -	1895	950	£247*
Gartlock, Glasgow, „ -	1896	613	£407*
Hawkhead, Govan, „ -	1895	510	£356*
Kingseat, Aberdeen, Village Type -	1905	482	£255*
Bangour, Edinburgh, „ -	1907	1000	£267*
(with buildings not yet completed, but in contemplation).			

\* R. I. B. A. Transactions, Paper by Hippolyte J. Blanc, R.S.A.,  
21st March 1908.

ASYLUMS (LUNATIC) (*continued*)—

Long Grove Asylum, Epsom (London County Council), completed 1907; pavilion type, with 400 patients in 8 villas. 2,013 patients. £243 per patient.

BANKS. See Offices.

BARNs.  $3\frac{1}{2}$ d. to 4d. per foot cube.

BATHS (PUBLIC), including swimming and slipper baths, laundry, machinery, and caretaker's quarters. 1s. to 1s. 2d. per foot cube.

Baths and Wash-houses (no Swimming Bath), Camberwell, including machinery, etc., 1s. 7d. per cubic foot.

CHIMNEY SHAFTS, plain as for factories, etc., complete with foundations, iron cap, etc. (height measured from surface of ground to top of cap).

Not exceeding 100 ft. in height, £7 to £8. 10s. per foot in height.

From 100 ft. to 200 ft. in height, £8. 10s. to £10 per foot in height.

From 200 ft. to 250 ft. in height, £10 to £12 per foot in height.

COACH-HOUSES.  $4\frac{1}{2}$ d. to 6d. per foot cube.

COW-HOUSES. Complete with fittings, 4d. to 6d. per foot cube; £20 to £35 per cow; £25 to £45 per square.

COTTAGES, WORKMEN'S. 4d. to  $6\frac{1}{2}$ d. per foot cube; £150 to £240 each.

Richmond Corporation, A. type, 1894,  $5\frac{1}{4}$ d. per foot cube; similar cottages, 1899,  $5\frac{2}{3}$ d. per foot cube. B. type, 1894;  $5\frac{5}{8}$ d. per foot cube; similar cottages, 1899,  $6\frac{4}{5}$ d. per foot cube.

Letchworth, 1905—

9-in. brick walls, rough cast and whitewashed, local plain tile roof; living-room, 194 sq. ft.; 3 bedrooms, 188, 180, and 78 sq. ft. respectively; scullery, 92 sq. ft.; height of rooms, 8 ft. all over.  $3\frac{1}{2}$ d. per foot cube; £150 per cottage.

Letchworth, 1907—

(1) Living-room, 2 bedrooms, and scullery; £175 per cottage.



COTTAGES, WORKMEN'S (*continued*)—

(2) Parlour, 3 bedrooms; kitchen, outside washhouse;  
£200 per cottage.

(3) Parlour, 3 bedrooms, kitchen and scullery; £240 per  
cottage.

Exeter Municipal Cottages, 1906—

Living-room, scullery with bath, 2 bedrooms, larder, coal  
store, and w.c. in garden. 5d. per foot cube; £149  
per cottage.

ELECTRICITY STATIONS—

Buildings erected complete, excluding machinery; brick,  
6d. to 8d. per foot cube.

Generating station, Stepney. Steel framing, Thames ballast  
concrete enclosure on expanded metal. 5d. per foot cube.

ELEVATORS, HYDRAULIC, excluding well-hole, water supply,  
tanks and pipes; travel of car, 35 ft.

To carry 2 persons, £280 each

„	4	„	330	„
„	6	„	400	„
„	8	„	500	„

add £2 for each additional foot of travel.

FACTORIES, plain, exclusive of machinery, 5d. to 6d. per foot cube.

FLATS, RESIDENTIAL. 1s. to 1s. 3d. per foot cube.

GYMNASIA. 5d. to 6d. per foot cube.

HOSPITALS. Complete, including administrative buildings.

First class for large towns—

9d. to 1s. per foot cube; £300 to £500 per bed.

Cottage, 8d. to 10d. per foot cube; £200 to £300 per bed.

Corrugated iron, 5d. to 6d. „ £100 to £150 „

Infectious, 8d. to 11d. „ £350 to £450 „

Corrugated iron, 5d. to 6d. „ £120 to £200 „

HOTELS. First class, 1s. to 2s. per foot cube.

Second class, 9d. to 1s. „

## 46 VALUATION OF REAL PROPERTY

**LIBRARIES (PUBLIC).** 7½d. to 10½d. per foot cube.

Mare Street, Hackney, opened 1908. Ancaster stone and red brick, including heating, ventilation, and electric lighting, complete. 10.266d. per foot cube.

(Very low price. The architect estimates price to reproduce as 10.75d. per foot cube.)

**LODGING-HOUSES (Municipal or Company).** 7d. to 8d. per foot cube; £55 to £70 per cubicle.

Bruce House, London (1906), 699 beds. £70 per bed.

Belfast (1902), 222 beds. £55 per bed.

Southampton (1899), 181 beds. £87 per bed.

Manchester (1899), 363 beds. £65 per bed.

**MORTUARY.** Complete, 10d. to 1s. per foot cube.

**MANSIONS.** 10d. to 1s. 6d. per foot cube for main building, 7d. to 9d. for servants' quarters, or 10d. to 1s. 3d. per foot cube complete.

**OFFICES.** 9d. to 1s. 2d., and in some modern buildings up to 2s. per foot cube, and even more.

Bank with offices over, Mare Street, Hackney (1906), corner building, red brick, polished granite and Euville stone, including bank fittings and strong rooms (not doors), 1s. 3½d. per foot cube.

Bank with flats over, Wanstead, Essex (1907), corner building, stock bricks, rough cast, polished granite and Portland stone, including bank fittings and strong rooms (not doors), 1s. 1½d. per foot cube.

**PAVING.** Laid and jointed in cement, excluding concrete foundations.

Common brick, flat, 3s. 6d. per yard super.

„ „ on edge, 4s. 6d. per yard super.

Blue Staffordshire bricks, flat, 6s. 6d. per yard super.

„ „ „ on edge, 9s. „

Add for p. c. concrete foundation—

4 in. thick, 2s. 3d. per yard super.

6 „ 3s. 6d. „

PAVING (*continued*)—

Concrete. One part cement to 6 parts ballast, finished with fair floated and trowelled face.

4 in. thick, 2s. 8d. per yard super.

6     "     3s. 6d.     "

Concrete slab, 2 in. thick, complete, 5s. 6d. per yard super.

Granite setts, complete on 6-in. p. c. concrete foundation, 14s. to 16s. per yard super.

TAR. 2½ in. thick over 3 in. hard core, 2s. 9d.

3     "     "     "     3s. 3d.

Finished with a dressing of Derbyshire spa rolled in.

SCHOOLS (ELEMENTARY). London and large towns, main building, 6d. to 9d. per foot cube ; complete, £15 to £20 per child.

Country, 6d. to 7½d. per foot cube ; £7 to £12 per child.

*See also on next page.*

STABLES. Complete, including fittings, 6d. to 10d. per foot cube, £50 to £100 per stall.

TOWN HALLS. For large cities, 1s. to 1s. 6d. per foot cube.

Country towns, 10d. to 1s. 2d. per foot cube.

St George's Vestry Hall, Mount Street, London (1887), 11.39d. per foot cube.

Lambeth Town Hall, 1s. 1d. per foot cube.

VILLAS. 8d. to 10d. per foot cube.

WAREHOUSES. Ornamental, 10d. to 1s. per foot cube.

Plain, 7½d. to 9d. per foot cube.

For ordinary storing purposes, 5½d. to 7d. per foot cube.

Corrugated iron, 3½d. to 4½d. per foot cube.

Great Western Railway grain warehouse, Plymouth, reinforced concrete, excluding pile foundations, 4d. per cubic foot of air space.

WORKHOUSES (including administrative buildings).

London, £160 to £200 per inmate.

Country, £120 to £160 per inmate.

Administrative buildings, 8d. to 11d. per foot cube.

Pavilions, etc., 7d. to 9d. per foot cube.

The following information is extracted from a valuable report in the Minutes of the London County Council, 26th June 1906 :—

	Date.	Accommodation.	Cost of Main Building per Place and per Cubic Foot (a).	Total per Place (b).	Description.
LONDON—					
Broadwater Road, Wandsworth	1903 (d)	920	£ s. d. 14 14 4	£ s. d. 20 19 9	Three-storey building (excluding special school).
Deansfield Road, Woolwich	..	1,202	7·90d.	18 5 3	Three one-storey buildings.
The Wandle, Wandsworth	..	1,140	8·85d.	20 9 5	Two-storey building and one-storey building.
Hearnville Road, Wandsworth	1904 (d)	1,002	13 12 6	17 2 3	Ditto.
New King's Road, Fulham	1903 (d)	1,148	8·31d.	..	Three-storey building.
Denmark Hill, Dulwich	..	996	7·83d.	..	Two-storey building and one-storey building.
Southfield, Wandsworth	1903 (d)	980	13 7 11 6·70d.	19 16 3	Three one-storey buildings.
Townmead Road, Fulham	..	1,124	7·14d.	..	Ditto.
CROYDON—					
Ingram Road -	1904 (e)	1,166	..	14 13 6(c)	Two-storey building and one-storey building.
Portlane Road -	1901 (e)	1,310	..	14 1 6(c)	Ditto.
HORNSEY—					
Mattison Road -	1903-4 (e)	900	..	25 11 3(c)	Ditto (excluding special instruction school).
WILLESDEN—					
Chamberlayne Wood Road	1902-3 (e)	1,224	..	15 10 6(c)	Three-storey building with three halls (excluding centres and special buildings).
Salisbury Road -	1901-2 (e)	1,260	..	15 12 8(c)	Three-storey building, two halls, one through two storeys with balcony.

(a) Excluding offices, drainage, tar paving, boundary walls, centres, furniture.

(b) Excluding land and furniture.

(c) Total cost, including furniture, supervision, architect's charges, etc.

(d) Date of tender.

(e) Date of completion.

## CHAPTER IV

### VALUATION FOR MORTGAGE

A MORTGAGE is a pledging of land or other property as a security for debt. Considering the very large proportion of the land and buildings in this country which is mortgaged, it is unnecessary to point out the importance of the subject of valuation for mortgage purposes to the surveyor.

#### LEGAL MORTGAGES

**Mortgages of Freehold Property.**—In the case of freehold properties it is usual for the mortgagor to grant the land to his creditor in fee simple, with a proviso for re-conveyance upon repayment of the principal sum with the interest due upon a certain day, generally six months after the date of the mortgage deed. The legal estate thereupon passes to the mortgagee, but the mortgagor remains in possession. The latter has a legal right to repay the debt and demand a re-conveyance at the end of the six months or other specified time, but after that date he has only what is called an equity of redemption.

A mortgagor in possession has practically full and free enjoyment of the property. He cannot be restrained from waste by the mortgagee unless the damage is of such a nature as to jeopardise the security. The mortgagor must not remove fixtures; and all fixtures, whether erected before the mortgage or afterwards, are included in the mortgage. There should always be a covenant in the deed for the mortgagor to keep the premises in repair and to insure them against fire. The mortgagee, however, has power under the Conveyancing and Law of Property Act, 1881, to insure the premises if the mortgagor fails to do so, and any money received by the mortgagor under an insurance claim must be applied to making

good any damage done by the fire, or to repaying the mortgage debt.

By the provisions of the Conveyancing Act, 1881, the mortgagor may make agricultural or occupation leases for a term not exceeding twenty-one years, or building leases not exceeding ninety-nine years, unless there is a covenant in the deed to the contrary.

The mortgagor may repay the debt with all interest due on the date specified in the deed, or at any time thereafter by giving six months' notice, or upon payment of six months' interest. He can then demand at his own expense a re-conveyance of the property, but a re-conveyance is not necessary in the cases of mortgages under the Friendly Societies Act, 1835, or the Building Societies Act, 1874. The equity of redemption can be sold, or a mortgagee can be compelled on repayment of the principal and interest, at the date in the deed, or upon six months' notice, or with six months' interest added, to convey the property to a third person instead of re-conveying it to the mortgagor. Thus, if a mortgagor has an opportunity of obtaining a loan at a lower rate of interest he can have the mortgage transferred. A mortgagee also may sell his interest, and the mortgagor need not be a party to the transaction, but it is always well to advise him of the fact.

**Mortgages of Leasehold Property.**—A mortgage of leasehold property can be effected by assignment of the term to the mortgagee subject to re-assignment on a stated day in the same manner as grant and re-conveyance of a fee simple. As, however, such assignment would render the mortgagee liable to the landlord for the fulfilment of the covenants of the lease and payment of the rent, it is usual for a mortgage of leasehold property to be made by means of an underlease for a term a few days less than the term of the lease, with a proviso for surrender of the underlease upon repayment of the mortgage debt and interest, with the same limits as to time of repayment as in the case of a fee simple. There are implied covenants by the mortgagor to the mortgagee to pay the rent, and to observe the covenants of the lease. In the event of forfeiture of the lease, the Conveyancing Act of 1892 empowers the Court to vest the lease in the under-lessee, in this case the mortgagee, upon his application, for the full term of the lease or a less term, and upon such conditions as the Court may consider to be reasonable.

**Equitable Mortgages.**—Besides the legal mortgages just described, equitable mortgages can be made merely by transfer of the title deeds. The transfer is usually accompanied by a memorandum specifying the date for repayment of the debt and the rate of interest to be paid, and giving an undertaking to execute a legal mortgage if called upon to do so. This memorandum is not legally necessary, although obviously very desirable. An equitable mortgage also arises upon the mortgage of an equity of redemption. Equitable mortgages are commonly resorted to where a loan, for example, from a banker, is only made for a short period, and a legal mortgage would be too expensive.

#### REMEDIES OF MORTGAGEE

**Calling in Mortgage Money.**—Under either legal or equitable mortgages, the mortgagee is entitled to call in his money at any time after the date specified for repayment, and if the debt is not paid, he may, first, sue the mortgagor on the covenant for repayment.

**Foreclosure.**—*Secondly*, the mortgagee may foreclose. In this case he makes application to the Court to fix a day for repayment of principal with the interest due. The Court will give reasonable time—generally six months—and if the money is not paid, the Court may then make an order barring the mortgagor from all benefit under his equity of redemption, and vesting the property absolutely in the mortgagee. The Conveyancing Act, 1881, however, empowers the Court, upon an action for foreclosure, to order a sale of the property instead of foreclosure.

**Taking Possession.**—*Thirdly*, the mortgagee may take possession. This course, however, is rarely taken, as it renders the mortgagee liable to render a strict account of the profits arising from the property during his occupation. The mortgagee in possession has the same powers of leasing which the mortgagor has under the Conveyancing Act, 1881.

**Sale.**—*Fourthly*, the mortgagee may proceed to sell the property, retaining the principal and interest due, together with his expenses, and handing over the balance, if any, to the mortgagor. This last is the remedy usually adopted. The

mortgagee may sell by auction or private treaty, and to anybody but himself. No application to the Court is necessary, and the purchaser obtains a good title, the consent of the mortgagor being unnecessary.

**Appointment of Receiver.**—*Fifthly*, the Act of 1881 gives the mortgagee power, after the power of sale has arisen, to appoint a receiver to collect the income of the property, and therefrom to pay the principal and interest due. The receiver, although appointed by the mortgagee, becomes the servant of the mortgagor, and the mortgagee is not responsible for his negligence.

**Power of Sale.**—By the Conveyancing Act, 1881, the mortgagee of any property under a mortgage *by deed* has a power of sale as soon as the money has become due. The power of sale, however, unless otherwise provided by the deed, cannot be exercised unless and until (1) notice requiring payment of the mortgage money has been served on the mortgagor or one of several mortgagors, and default has been made in payment of the mortgage money or part of it for three months after such service of notice, or (2) some interest under the mortgage deed is due and in arrear for two months, or (3) there has been a breach of some provision contained in the deed, or in the Act, on the part of the mortgagor, or some person concurring in the mortgage, to be observed or performed, other than and besides a covenant for payment of the mortgage money and interest thereon. The Act provides for the proper application of the mortgage money, and enacts that the title of a purchaser under a conveyance made in professed exercise of a power of sale under the Act shall not be impeached because proper notice was not given, or the power of sale was improperly exercised. The remedy of the mortgagor or other person damnified will be against the mortgagee exercising the power of sale.

**Statute of Limitations.**—By the Statute of Limitations, if the mortgagor in possession makes no payment of interest or principal, nor in any other way acknowledges the existence of the debt, for the period of twelve years, the mortgage will be nullified. Similarly, if the mortgagee remain in possession for



the period of twelve years without any acknowledgment of the equity of redemption, he will obtain absolute possession.

**Second Mortgages.**—Sometimes there are two or more mortgages upon the same property. The disadvantages of second mortgages are very great, however, and such mortgages generally bear heavy rates of interest. The second mortgagee has no title deeds. The first mortgagee may sell at an inconvenient time, or he may foreclose, in which case the second mortgagee has no option but to buy him out if he would retain his own security.

**Tacking.**—If the first mortgagee has no notice of the second mortgage, he may, moreover, “tack” further mortgages on, and these will become part of the first mortgage, and will take priority of the second. Similarly, a third mortgagee may buy the first mortgage and tack the third mortgage to it. Tacking is not allowed with equitable mortgages, and is prohibited by the Land Registry Acts in London and Yorkshire.

**Consolidation.**—The Conveyancing Act of 1881 prohibits consolidation of mortgages made after that date, except where the clause is expressly excluded by the mortgage deed. By express covenant in any of the deeds, however, various mortgages for sums borrowed by a person on different properties may be consolidated, thus giving the mortgagee power to secure the whole debt on the various properties severally and collectively. Thus, a second mortgage apparently well secured may be squeezed out by means of an extravagant amount having been lent upon another property. In the same way an equity of redemption may be rendered valueless, and this makes them very risky things to buy.

**Mortgages by Trustees.**—It must be remembered that when money is lent on mortgage of land and buildings, the ultimate remedy in the case of non-payment of interest or of the debt is the sale of the property. The failure to pay the money may come at any time, and thus the sum which can be advanced with safety must be covered by what the property would realise if sold in the market at short notice at any time, and after all expenses and any outstanding interest have been paid. The

surveyor, who is instructed to advise as to the amount which should be advanced, is thus in a very responsible position, especially where he is valuing for trustees. Prior to 1893 it was usual for the surveyor to report the value of the property, and it was left for the solicitor to advise as to what proportion of that sum might be safely advanced. The old rule of the Court of Chancery was for trustees not to lend beyond two-thirds of the value of land, or one-half of value of house property, the value being fixed by a local surveyor.

By sec. 8 (1) of the Trustee Act, 1893, it is enacted that "a trustee lending money on the security of any properties on which he can lawfully lend, shall not be chargeable for breach of trust by reason only of the proportion borne by the amount of the loan to the value of the properties at the time when the loan was made, provided that it appears to the Court that, in making the loan, the trustee was acting on a report as to the value of the property made by a person whom he reasonably believed to be an able, practical surveyor or valuer, instructed and employed independently of any owner of the property, whether such surveyor or valuer carried on business in the locality where the property is situate or elsewhere, and that the amount of the loan does not exceed two equal third parts of the value of the property, as stated in the report, and that the loan was made under the advice of the surveyor or valuer expressed in the report."

It will be observed that the valuer must be employed by the trustees independently of any owner of the property, and in his instructions he should be informed that he is required to report for the information of trustees.

Trustees may not lend on ordinary leasehold property. By sec. 5 of the Act of 1893, where they have power to invest in real securities, and unless expressly forbidden by the instrument creating the trust, they may advance money "on mortgage of property held for an unexpired term of not less than two hundred years, and not subject to a reservation of rent greater than a shilling a year, or to any right of redemption, or to any condition for re-entry, except for non-payment of rent."

Trustees are not justified in lending money on equitable mortgages, even when accompanied by an undertaking to execute a legal mortgage. It follows that trustees cannot advance money

on second mortgages. There is no objection to their lending on sub-mortgage providing they get the legal estate. In fact, in such a case they get the benefit of two separate covenants for payment of the money.

**Duty of Solicitor to Client.**—A client lending on mortgage by the advice of his solicitor has a right of action against him for neglecting to procure an independent valuation. In the case of trust investments this right vests in the trustees only, and not in the beneficiaries. In Robbins' treatise on the Law of Mortgage, etc., it is stated: "It is clearly necessary and proper for trustees, when proposing to invest trust money on mortgage security, for the protection both of themselves and their beneficiaries, to consult a solicitor with regard to the sufficiency in value and soundness of title of the property intended to be comprised in the security. The rule is thus stated by Stirling, J., in *Blyth v. Fladgate* (1891): 'A trustee cannot delegate the execution of the trust. All that he is entitled to do is to avail himself of the services of others, wherever such employment is according to the usual course of business. It is, therefore, the duty of a solicitor, not so much himself to form or express an opinion on the value of the property offered to a trustee as security for an advance (though the law does not prevent him from so doing if he thinks fit) as to see that the trustee has before him the proper materials for forming a judgment of his own. He ought, therefore, to see, not only that the trustee has before him proper valuations of the property, but that he is made acquainted with any facts known to the solicitor, and not appearing by the valuation, which may affect the value of the property, and that his attention is directed to any rules laid down by the courts for the guidance of trustees with reference to such matter.'"

The mortgagee is obviously in a very different position to a purchaser. The latter may be prepared to take some risks, and it must be inferred that he can set off exceptionally good investments against those which, notwithstanding reasonable foresight, turn out badly. The position of the mortgagee, however, is not the same. He must take each mortgage on its merits and cannot average. He only obtains a comparatively low rate of interest, and in the event of the borrower not paying interest, or not repaying the debt, the lender will inevitably lose if the security is

insufficient. He cannot make up his losses on one mortgage by an increase in the value of another property upon which he has lent money. Moreover, a purchaser can nurse and improve the property and choose the best time for sale, whereas the mortgagee has no control except to prevent malicious waste or removal of fixtures, timber, etc., where such waste jeopardises his security.

**Basis of Valuation.**—We now come, then, to the important question, upon what basis is the value to be determined, and does such basis differ from that employed in the case of fixing a reserve for sale? The answer appears to me to be, that the surveyor should ascertain the fair market value, by first arriving at a fair annual rent or otherwise. Everything, however, of a speculative or prospective nature must be rigidly excluded. If the property is leasehold, the covenants of the lease must be carefully examined, and the danger of forfeiture upon breach of covenant taken into account. The rate per cent. allowed in arriving at the years' purchase should be comparatively high.

**Proportion of Value safely Lendable.**—It must be remembered, however, that the surveyor has a second safeguard, in advising as to what proportion of the capital value may safely be advanced upon the property. In this second part of his advice he should rely upon his judgment as much as in the first part, and not depend absolutely upon the fixed proportion of two-thirds. If there is any uncertainty as to the possibility of his figure being realised if sale should occur at an inopportune time, he should not hesitate to advise that the loan should be less than the two-thirds. Mortgagees, also, would be well advised to have their property re-valued periodically, or at all events investigation should be made from time to time as to whether any great depreciation has occurred. A holder of stock or shares examines his securities from time to time, and, if he considers advisable, cuts his losses. Of course it entails some expense, but if mortgagees examined their securities in the same way, they would probably save themselves from making any losses at all, and, on the other hand, it might be found that a larger amount could be advanced if required by the mortgagor. It is not at all out of place for a surveyor in his report to suggest

that the property should be re-valued at the end of a reasonable period if he thinks this desirable.

**Liability of Valuer.**—With regard to the personal liability of the valuer if he values for the mortgagee, he is liable for negligence if he has not used proper care and the ability which a surveyor professing knowledge of values may reasonably be supposed to possess. In the words of Mr Justice Channell in *Harrison v. Stephenson and Alexander*: “You cannot bring an action against a valuer for a mere error of judgment,—only if he has not taken some pains which he ought to have taken.” The measure of damages will be the whole loss sustained owing to the deficiency of security. An action for negligence cannot be sustained by a mortgagee unless there is a contractual relation between him and the surveyor. Thus, if a valuer is instructed by the mortgagor, and the mortgagee lends money on the strength of his report, and subsequently finds the security deficient, he cannot sue the surveyor for damages.

It is very satisfactory, having regard to the very large number of mortgages that are made, to see how few are the cases of actions for negligence on the part of surveyors. The sense of responsibility, however, may well be pressed home by quoting a recent case, which will also serve to illustrate the proceedings taken for the recovery of interest and mortgage money.

Plaintiff's solicitor wrote to the defendants, a firm of surveyors, that his client would be prepared to advance £5,500 at  $4\frac{1}{2}$  per cent., provided that, after defendants had reported, she was satisfied that she would be justified in making the advance, and subject to her solicitor being satisfied as to the title. The letter stated, “The report you will make will be the one upon which my client will be guided in respect to the proposed loan, and she naturally wishes to know whether you would advise a prudent person to lend as much on the security offered.” The report sent by the defendants stated that the property was ample security, describing it as an excellent property in every way. The money was advanced, the mortgage deed being dated March 1904. The interest due in September 1905 was not paid, and action was brought for interest early in 1906, but no money could be obtained under this judgment. Foreclosure action was then brought, and a receiver appointed. During a period of three

months the receiver said the receipts amounted to £690, and the total outgoings to over £1,000. The property in question consisted of shops with flats over, and was described by the plaintiff's witnesses as being very badly built. A member of the defendant's firm said that he valued each house at £450, being told that they cost £500 to build. He estimated the net income at £600, and, taking 14 years' purchase, valued the property at £8,790. In summing up, the judge said the question was whether the surveyor was deceived by the builder, and if so, whether he ought to have been. Any ordinary person might have been deceived, but that was why people employed an expert in such matters. Verdict was returned for the plaintiff for £1,750.

**Valuer should not Act for Both Parties.**—A valuer should not act for both parties, or he may run the risk of finding himself debarred from recovering his fees; as in the case of *Fryer v. Flood and Others*, where an architect acted for vendor and purchaser, and his decision was held to be prejudiced by conflicting interests.

**Valuer's Fees.**—There should be a settled agreement at the outset as to the surveyor's fees. The usual practice is to charge one-third if the mortgage does not go through. This practice may appear to have the disadvantage of acting as an incentive to the valuer to make his valuation so that the money may be lent. On the other hand, however, the fees are paid by the mortgagor, and it would be hard to make him pay full fees upon more than one application. The full payment, moreover, is, in part, in respect of the responsibility which the valuer undertakes, and he cannot be said to have earned the full amount if the advance is not made.

**Report.**—With regard to the valuer's report, no special form is necessary. It is not usual to go into great details of the property, but it should be carefully described so as to leave no doubt as to the exact premises which have been valued, and it is always well to affix a plan to the report. If the report is for the use of trustees, this should be stated in the report. The value of the property should be given, and the sum which, in the valuer's opinion, may safely be advanced; but details of the valuation should not be given.

**Amount to be Lent on Agricultural Land, etc.**—Coming now to the amount which can be lent on agricultural property, due allowance should be made for repairs to buildings, hedges, etc., and the great deterioration in value accruing where these are not properly attended to. Timber must be excluded from the valuation, and also anything which can be easily removed. Care must also be taken in arriving at a fair annual rent where this is the basis of the valuation, for so much depends upon the personal element in farming. Thus, if money is lent to a good farmer, he may at any time sell his equity of redemption to a man who has not his ability or energy. I give below an example of a report made in the case of a freehold farm where the owner sought a loan of £4,000 at 4 per cent. interest.

### Report as to Mortgage on Freehold Farm

BROAD STREET,  
LONDON, E.C., *March 1909.*

GENTLEMEN,—In accordance with your instructions, I have made a careful survey of Holly Hill Farm, Kent, with a view to advising as to the value of the same, and the amount which you may safely lend on mortgage of the property at 4 per cent. interest as trustees of the estate of the late Col. John Brown. I understand that the land is held in fee simple, and that the custom of gavelkind does not apply. The land tax last year amounted to £4. 13s. 6d. and tithe rent-charge to £1. 5s.

The property consists of about 183 acres 2 roods 5 poles, and I have marked the boundaries upon the plan herewith. There is a good residence, and the farm buildings are well placed and suitable to the holding. The land is in a high state of cultivation, and there are about 42 acres planted with hops, and 10 acres planted with young fruit trees of good varieties. The farm is occupied by the owner, and is in good condition and well farmed.

I consider that the present value of the property is £5,850, and that the sum of £3,900 may safely be advanced at  $4\frac{1}{2}$  per cent. interest.

I consider that the property should be again reported on in three years' time.

I am, etc.

**Valuation on which Report is based.**—The figures in the foregoing report are based upon the following valuation. The valuation, however, would not be submitted with the report :—

Fee-simple farm :							
183 acres 2 roods 5 poles, worth on lease £240 per annum.							
Deduct land tax	-	-	-	-	£4	13	6
Tithe	-	-	-	-	-	1	5 0
							£6
Net income							£234
Take years' purchase							25
							<u>£5,850</u>

There is a large area under hops. This is a very varying crop, and in rather an unsettled condition, and the property should be re-valued in three years' time. A safe amount to advance would be £3,900.

**Ground Rents.**—Ground rents, where themselves well secured on the rack rental value of the property, will form very good security for a loan on mortgage. A power to invest on the security of freehold hereditaments will authorise a loan on a mortgage of freehold ground rents.

**Suburban House Property.**—A vast amount of money is continually being advanced on suburban house property. This kind of property is not difficult to value, and it should be a comparatively simple matter to advise as to the amount which may be advanced where the houses let well. Even here, however, there may be a great deterioration if the mortgage continues for a long time, and no doubt large amounts have been lost in the case of mortgages on basement houses in London suburbs, which now have to be let at very low rents in many cases.

It will be unnecessary to give another report, but I give below a valuation for mortgage on a small suburban estate.

### *Example*

The surveyor is instructed to report as to what sum can safely be lent on mortgage on the leasehold houses, Nos. 1 to 45



Southampton Street, and Nos. 1 to 53 Arundel Street, Brixton. The facts as used in the valuation have either been supplied by the solicitor or ascertained by the valuer:—

Total rents of 90 houses let on yearly and three-year agreements	- - - - -	£3,025
Eight empty houses—estimated rents	- - -	265
		<hr/>
		£3,290
Deduct ground rents—£6 on each house	-	588
		<hr/>
		£2,702
Deduct repairs, empties, collection, and management, say 20 per cent.	- - -	540
		<hr/>
Net income	- - - - -	£2,162
45 years on 7 per cent. table Y.P.	- - -	13.6
		<hr/>
		£29,403
The eight empty houses require an expenditure before letting of	- - - - -	320
		<hr/>
		<u>£29,083</u>

Present value, say £29,000.

The neighbourhood is well supplied with shops, facilities for travelling, etc., and the houses will probably continue to let well. Two-thirds may be advanced, say £18,500.

**Mansions and Large Residential Property.**—Large residential property and mansions present very great difficulties, and must be dealt with carefully. These are in many cases built for occupation by the owner, or, at all events, he may have spent a large sum on special features and decorations to suit his own taste. Again, the neighbourhood may change, as we have seen in many districts within recent years, owing to the introduction of tramways or the building of factories, etc., or the opening up of large estates for building purposes. When the large houses in such circumstances become empty, they are often very difficult to let, and in the end a very low rent may have to be accepted. These remarks apply less to large houses and mansions in the West End of London than to large suburban

residences, but even in the favoured districts of the West End, where there is always a demand for such properties, fashion changes and new houses are built with modern improvements and conveniences, and old houses become difficult to dispose of, and in many cases are only reoccupied after a very heavy expenditure in reconstruction and improvement.

**Cost not a Basis.**—In considering these properties, whatever the surveyor does, he must banish from his mind all idea of the first cost of the building. To take an extreme case, reference may be made to the late Col. North's house at Eltham, which cost a fabulous sum to erect. This property, upon the owner's decease, came into the market, and after some years was eventually sold to the London County Council at a figure not much in excess of the value of the land.

**Building Land.**—Again, if there is land attached to the house which has building value, the surveyor must be very careful how he takes this into account in valuing for mortgage. It must be remembered that land which is certain to have a good building value a few years hence cannot be held, but may have to be sold at a very disadvantageous time, when perhaps other estates in the district, but better placed, are also being developed.

**Unlet Houses and Cottage Property.**—Unlet houses and cottage property cannot be regarded as good security for sums advanced on mortgage, and in reporting on such property the surveyor should certainly act on very safe figures.

**Shops.**—It has already been pointed out that in valuing shops great care must be exercised in arriving at a fair annual rent, and this is even more necessary in the case of valuation for mortgage than in other cases. We must estimate a rent at which the shops would be practically certain to let under any circumstances likely to arise. Thus, let us suppose a row of twenty shops in a fair residential neighbourhood. One of them is let to a draper at £100 per annum on a seven years' lease, and he starts his business with practically no opposition. At the end of the seven years he has made a good connection, and the landlord is able to demand from him a rent of £150 per annum on a renewal of his lease. Now, let us suppose that a large estate is developed close by. The owner erects a good row

of shops, and a large draper with a good amount of capital takes three or four of them. The first man may go to the wall, as so many small drapers do in the suburbs every year. The shop becomes empty, and the landlord may now have to let it at £70 or £80 per annum. If the value has been based on a rental of £150 and two-thirds of the value advanced, the mortgagee is bound to lose if the mortgagor fails to pay. Even if the valuation was made on the basis of £100 per annum, there may still be insufficient to pay arrears of interest and expenses in addition to the mortgage money.

**Public Houses.**—Mortgages on public houses cannot be considered as good investments, except indeed when the mortgagee is the brewer or distiller, and is thus enabled to secure extra trade, possibly at high prices. In the case of *Budge v. Gummow*, trustees advanced £1,400 on mortgage on a freehold hotel at Broadstairs. The trustees acted on the report of a London surveyor, who valued the property at £2,700, but this sum included £800 in respect of the licence. The then tenant failed, and so did a subsequent tenant, and the house, after being empty for some time, was let at £60 per annum. The mortgagor paid no interest, and the trustees advanced sums for repairs, etc., and the total loss eventually amounted to £2,114. Surveyors valued the property at between £800 and £900, and the trustees were charged with the sum of £1,400.

**Factories and Businesses.**—We now come to the difficult question of mortgages on business premises and factories. Great care must be taken in advising as to the value for mortgage purposes of business premises and businesses carried on as a going concern. As indicated in a previous chapter, the land and premises, if disposed of at a forced sale, may not exceed the value of the land as a cleared site. Where a loan is made on such premises, it is really secured on the business as well, and it is more in the province of the accountant and business expert to advise as to what sum it is safe to advance. The value of such a property will depend greatly upon its management, and the profits, and consequently the value, might seriously fall if the business were transferred, or in the extreme case of the mortgagee being compelled to foreclose.

In illustration of the undesirability of lending money by way of mortgage on a going concern, reference may be made to the case of *Whiteley v. Learoyd*. In this case the question was raised whether an advance of trust money on the mortgage of a freehold brickfield came within a power to invest in real securities. Sir W. Lindley, L.J., said that such a mortgage would be a real security within the power, if the value of the land, apart from the particular trade carried on upon it, was sufficient to secure the sum advanced, but that a security of so hazardous a nature, though in one sense and to some extent a real security, was not a proper security for trust money; it was not, in truth, a real security for any sum beyond the value of the land. And Sir H. Cotton, L.J., expressed his opinion that the mortgage of the land was undoubtedly a real security, and did not become less so because trade buildings and machinery were upon it, but that, in this case, the security depended for its value on the particular trade carried on there, and on the value of the buildings and machinery, which could only be used for that particular business, and which was not reasonably available for other purposes. The decision of the Court of Appeal, upheld on appeal to the House of Lords, was that the trustees were liable to make good the loss to the estate caused by the failure of the security.

**Short Leaseholds.**—Short leaseholds are a very risky subject for mortgage. If the premises are unlet for a short time this fact may entirely change a good purchase price into a bad one. Another uncertain element is that of dilapidations at the end of the term. If a large sum on this account has to be met, as well as loss of interest, and the property is empty for some time, the mortgagee may very well lose the whole of the sum lent.

**Life Interests and Reversions.**—Mortgages on life interests and reversions are principally confined to insurance companies, who are able to deal with them by means of sinking funds. It is obvious that the data are too uncertain to form a reliable basis for advising loans on properties depending on the duration of particular lives, but where a large number of such interests are concerned and the rate of interest high, the insurance company, etc., may, on the whole, do well.

## CHAPTER V

### TIMBER MEASURING AND VALUING

IN the sale of an estate which has much growing timber, the latter is dealt with either (1) by including it in the sale of the land, or (2) it is first valued for the vendor, and it is made a condition that the purchaser shall take the timber at a price stated; or the more usual method is (3) for the timber to be valued after the sale and the price agreed by two surveyors, representing the vendor and purchaser respectively, or by an umpire appointed by them.

**What is Timber?**—In the eyes of the law, oak, ash, and elm trees of the age of twenty years and upwards are timber in any part of the country, provided there is sufficient sound wood in them to make a good post. Other trees are included in the term in different districts, according to the custom of the locality. A standard which is sometimes adopted instead of age, is to take a minimum quarter girt of 6 in., measured over bark at a height of 5 ft. from the ground. The difficulty does not arise as often as it might, however, as “timber-like” trees are generally included in the separate valuation. This term would bring in probably all trees of the requisite size except fruit trees, and would include walnut trees. The stipulation commonly includes all trees down to tellers and saplings of the value of one shilling per stick, and in some cases underwood as well. Where the timber is sold for clearing it is sometimes felled, when there is no difficulty in measuring. In other cases a few trees are felled; but as a rule the timber is sold standing, and the purchaser has to use his judgment as to its soundness, etc.

**Quarter-girt Measure.**—There are several methods of measuring the timber in a tree, and they give very varying

cubical contents. The most common method, however, and the only one which it is intended to deal with here is the quarter-girt measure.

The value of timber is placed at so much per foot cube, and this price is determined with due regard to the fact that the tree is standing, and that expense must be incurred in felling, stripping, trimming, and carting before the timber can be considered saleable as such in the market. So far as trimming is concerned, the application of the quarter-girt rule makes the necessary correction; for bark and branches the valuer exercises his judgment.

The quarter-girt rule is to take the length of the stick of timber, and multiply it by the square of one quarter of the mean girt of the tree measured as under the bark. The dimensions are usually taken in feet as to the height, and in inches or half inches as to the quarter girt. To get the cubic contents in feet, it is necessary, therefore, to reduce the inches to feet by dividing by 144. Tables are given on pp. 334, 335 showing the cubic content in feet corresponding to a particular length in feet and quarter girt in inches. If the tree is felled, the length can easily be measured, and the girt taken in the middle with a string, which is then folded into four. If, as is usual, however, the timber is standing, it is measured as follows:—

The height of the tree must be estimated, if necessary with the aid of a bamboo gauge 20 ft. or so in height, marked with alternate feet painted black and white, but with experience this pole can be dispensed with. To ascertain the quarter girt, a measurement round the stick of timber is made by means of a leather measuring strap, graduated in half inches of quarter girt, at a height of some 5 or 6 ft. from the ground. Then an estimate is made of the quarter girt 5 or 6 ft. from top of stick. The mean of these two dimensions is the gross mean quarter girt. Deduction, varying according to the particular tree, must be made in respect of the thickness of the bark, and the remainder gives the net mean quarter girt for purposes of calculation.

To estimate the quarter girt at the top of the stick, allowance must be made for taper, an average allowance being 1 in. to every 6 ft. in height. This taper, of course, varies with different trees, and with experience a nearer estimate can be obtained than by this rough allowance of 1 in. to 6 ft. Where branches

are included, it will be more difficult to estimate the quarter girt of them, the measurement at a height being very difficult to gauge except after much practice.

The reduction for bark is about one-eighth for elms and other very thick barked trees, and one-twelfth for oak trees, allowing rather less for very big trees. Here again, however, the valuer must use his judgment, as trees vary very much, according to the conditions under which they are grown.

How much of a tree should be measured depends on the facts. The bole is, of course, measured; sometimes the bole and a principal branch, rarely the bole and two branches, the remainder of the tree being thrown in. In Herefordshire, Kent, and some other districts only the bole is measured; in Lancashire two limbs are included if there are two of timber size, but the more usual practice is to take the bole and one limb. Trees of less than 6 in. quarter girt are not timber, but saplings or tellers, and are priced at 1s. to 3s. each, or at so much per dozen.

**Defects.**—There are several defects which may occur in trees and seriously depreciate their value for timber purposes. The principal of these can only be briefly referred to here. Heart-shakes are fissures extending from the centre and gradually lessening in width as they approach the sap wood. It is often quite impossible to detect these in standing timber. Star-shakes are similar, but they widen towards the sap wood, and where serious are generally indicated by long excrescences on the bark. Cup-shakes or ring-shakes split one annual ring from another, and may be generally discovered by the expert by tapping the tree with the foot. Besides these defects, very old trees are often more or less decayed and practically worthless, except for purposes of firewood. These, again, yield to the test of knocking or kicking. Any of these defects, if bad, may seriously reduce the value of the timber, but the proper allowance to be made can only be gauged by experience and by seeing how particular trees can be converted at the saw mill.

**Prices.**—With regard to the prices which various trees will fetch in the market per cubic foot, various circumstances must be taken into account, e.g., the ease or otherwise of getting the

timber out of the wood, the demand for bark, and lop and top, nearness to railway or water carriage, and condition and level of roads. Thus, Mr Parry, the chief engineer of the Liverpool Corporation Waterworks, stated before the Departmental Committee on Forestry in 1902 that he was only able to get 4d. per foot for fine larch timber at Lake Vyrnwy, but at the station it would be worth 1s. to 1s. 3d. per cubic foot. It is only possible, therefore, to give a rough indication of the limits in price which various kinds of trees may be expected to realise. On the average, lop, top, and bark about cover the cost of felling, etc., but whether this is so in a particular case depends upon the demand for them in the district.

**Principal Features of Timber Trees.**—The principal features by which the most important timber trees may be recognised at all times of the year and the prices per cubic foot are given below. Timber is generally sold in the winter, when the leaves have fallen, and identification will then depend upon the shape of the tree, and the appearance of bark, twigs, and leaf buds. It must be remembered that trees of the same species vary very much, according to the circumstances under which they are grown and the nature of the soil. Timber grown in copses is generally straighter and longer in the bole and of better quality than that grown in the open and in hedgerows. In the latter case injury is often done to trees by nails, iron, etc., and by improper lopping. The character of the soil should always be noted, as this is often an important factor in determining the value of the timber. Where branches are measured it may be necessary to take these at a different price from the bole; e.g., in a fine oak the bole may be worth 2s. 6d. per cubic foot, and two branches may possibly be taken at 1s. per cubic foot.

**ACACIA (false) or LOCUST TREE—**

Japanese appearance. Thorns on twigs of young trees.

*Bole.*—Beautifully ridged and furrowed.

*Leaves.*—Many pairs of opposite oval leaflets, appear late.

*Flowers.*—Pea-shaped, white, long racemes.

*Fruit.*—In long narrow pods.

*Price.*—About 1s. per cubic foot.



ALDER—(found generally by water).

*Bark.*—Dark, soft, occasional excrescences.

*Leaves.*—Battledore-shaped, something like hazel, but blunter at the ends and with longer stalks, somewhat glutinous.

*Flowers.*—Catkin. Female catkins hang on branches long after the seed has fallen. They have somewhat the appearance of bunches of miniature, dark-coloured, oval pine cones.

*Price.*—From 6d. to 10d. per cubic foot.

ASH—

Beautiful umbrageous tree, grows rapidly on almost any soil, but the best timber is found on stiff clay.

*Bark.*—Thick, ash colour, fairly distinctive. Excrescences on the bark are a sign of poor timber.

*Leaves.*—Number of long, pointed leaflets in pairs, fall early.

*Buds.*—Large, black, opposite.

*Flowers.*—Loose spikes from side of the branches.

*Fruit.*—Samara in clusters.

*Price.*—Small, 10d. to 1s. 3d. per cubic foot.

Large, up to 2s. 6d. per cubic foot ; or,

Under 15 ft., 10d. to 1s. per cubic foot.

From 15 ft. to 25 ft., 1s. to 2s. per cubic foot

Over 25 ft., 2s. to 2s. 6d. per cubic foot.

BEECH—

Fine stately tree. Best trees are grown in close contact in good loam. Copper-beech, very ornamental tree with deep red leaves.

*Bark.*—Silver-grey, smooth, very distinctive.

*Leaves.*—Oval, pointed, smooth, glossy, ribbed beneath, deep green (sometimes copper or purple-brown).

*Buds.*—Brown, long, oat-shaped.

*Fruit.*—Three-sided nut, in hard prickly shell.

*Price.*—Small, 6d. per cubic foot.

Large, 1s. to 1s. 6d. per cubic foot.

## BIRCH—

Very distinctive graceful tree. Will thrive on poor soil.

*Leaves.*—Small, long-stalked, triangular, serrated.

*Price.*—From 4d. to 1s. per cubic foot.

## CEDAR—

Cedar of Lebanon, massive, handsome tree, fan-like appearance of branches.

Deodar, pyramidal.

Atlas, somewhat similar to deodar.

*Price.*—From 6d. to 1s. 3d. per cubic foot.

## CHESTNUT (Horse)—

*Branches.*—Distinct droop with upward bend at end.

*Bole.*—Commonly twisted.

*Bark.*—Dark, thin, smooth.

*Twigs.*—Thick.

*Leaves.*—Digitate, coarsely toothed, generally seven divisions in a leaf, long stalks.

*Buds.*—Large, glutinous, opposite.

*Flower.*—Very handsome, white or pink.

*Fruit.*—One or two nuts in husk with thick spikes.

*Price.*—From 4d. to 1s. per cubic foot

## CHESTNUT (Spanish or sweet)—

Handsome tree, very liable to cup-shakes when grown in poor soil. It prefers a sandy loam. This tree deteriorates after sixty or seventy years of age, the heart showing signs of decay. The young wood is the most durable.

*Bole.*—Commonly twisted.

*Bark.*—Fluted in old trees, smooth in young.

*Leaves.*—Lanceolate, toothed, glossy, 9 to 10 in. in length.

*Flowers.*—Groups of flowers on long catkins.

*Fruit.*—Generally three in a husk, the outside of which has large number of thin spikes.

*Price.*—From 10d. to 2s. per cubic foot.

ELM—

Large tree, grows best on deep loam, and where it grows to great size, this is a sign of good rich soil.

*Bark*.—Rough, thick.

*Leaves*.—Small, heart-shaped, serrated.

*Buds*.—Small, pointed.

*Flower*.—Red, small.

Wych elm has less upright trunk, more spreading branches, larger leaf, and less corrugated bark, than the common species, and is not so particular as to soil, thriving on light soil on mountain sides.

*Price*.—From 6d. to 1s. 4d. per cubic foot.

FIRS AND PINES—

Douglas, 10d. to 1s. 2d. per cubic foot.

Scotch, 6d. to 9d. per cubic foot.

Silver, 3d. to 6d. per cubic foot.

Spruce, 4d. to 6d. per cubic foot.

HOLLY—

*Price* (when of timber size).—1s. 6d. to 3s. per cubic foot.

HORNBEAM—

Large trees very apt to run shaky. Useful hedge plant.

*Bark*.—Hard, smooth.

*Leaf*.—Similar to beech, but more serrated.

*Buds*.—Oat-shaped, similar to beech, but much smaller.

*Flowers*.—Small and greenish, hop-like catkins.

*Price*.—1s. to 1s. 6d.; large trees up to 2s. per cubic foot.

LARCH—

Best trees found where the air is dry and crisp. Trees grown in plains and near the coast are apt to be rotten at the heart.

The only deciduous conifer, and therefore easily recognised in winter by the absence of foliage.

*Needles*.—Short, growing on tufts.

*Fruit*.—Ovate-oblong cones, about an inch in length.

*Price*.—9d. to 1s. 3d. per cubic foot.

## LIME—

Graceful umbrageous tree.

*Bark*.—Thin.

*Leaves*.—Heart-shaped, serrated, very tender green in spring.

*Twigs*.—Cylindrical.

*Buds*.—Red, alternate.

*Flowers*.—Small, yellowish-green.

*Fruit*.—In small cluster on long thin stem attached to a thin narrow bract, which acts as a “wing” to the seeds.

*Price*.—9d. to 1s. 6d. per cubic foot.

## MAPLE—

Small tree.

*Leaves*.—Five-pointed on long stalks.

*Buds*.—Red, alternate.

*Flowers*.—Yellowish-green corymb.

*Fruit*.—Two-winged samara.

*Price*.—6d. to 1s. per cubic foot.

## OAK (English)—

The best trees are grown on stiff clayey soil, those grown on bare rocky or sandy soil often turn out shakey and rotten at the heart. If sound, the price increases with the age and size of the tree, and it has been stated that 120 years is the most profitable age at which to cut down.

*Shape*.—Broad and overhanging, branches twisted.

*Bark*.—Tough, thick, dark.

*Leaves*.—Sinuate or scalloped.

*Buds*.—Clustered.

*Fruit*.—Acorn.

*Price*.—Small, 1s.; medium, 1s. 3d.; large clear butts, 2s. to 3s. per cubic foot.

## OAK (Turkey or Italian)—

*Leaf*.—Sharp indentation.

*Buds*.—Hairy.

*Fruit*.—Acorn, dark cup, mossy-looking.

*Price*.—Half as much as English oak.

## OAK (Holm)—

Evergreen, ornamental tree.

*Bark*.—Very dark, thin, rather rough.

*Leaves*.—Something like holly.

*Fruit*.—Very small acorn.

*Price*.—When of timber size, half as much as English oak.

## PLANE—

Found in large quantities in London.

*Branches*.—Irregular, wavy appearance.

*Bark*.—Very thin; scales off, and leaves pale green patches.

*Leaves*.—Palmate with five distinct points, very smooth.

*Seeds*.—Round prickly balls.

*Price*.—6d. to 1s. per cubic foot.

## POPLAR—

Many species; branches all have an upward tendency; leaves, heart-shaped; flower, catkin; buds, large on wrinkled stems; seed enveloped in a mass of cottony down.

## WHITE—

Lofty tree, with fine spreading head.

*Bark*.—Grey, with black lozenge-shaped markings.

*Leaves*.—Heart-shaped, toothed, dark green above, white downy under-surface.

*Price*.—6d. to 1s.

## GREY—

Very similar to white, but leaf not downy; generally begins to rot in the heart when forty or fifty years old.

## BLACK—

Lofty tree, with spreading head.

*Bark*.—Dark, very rough.

*Buds*.—Viscous.

*Leaves*.—Perfectly smooth, roughly triangular.

*Price*.—1d. or 2d. more than white poplar.

POPLAR (*continued*)—

ASPEN.—Very thin twigs, very graceful.

## LOMBARDY—

Straight, spire shape.

*Price*.—3d. per cubic foot.

## SYCAMORE (Greater Maple)—

Big tree, with spreading umbrageous head.

*Bark*.—Smooth, sometimes flaked, sometimes peeling like plane.

*Leaves*.—Large, palmate, coarsely serrated leaves on long stalks.

*Buds*.—Opposite, green.

*Seed*.—Double-winged samara.

*Price*.—From 6d. per cubic foot for small trees; 1s. to 1s. 6d. per cubic foot for large trees.

## WALNUT—

Lofty tree, with large spreading branches. Twigs are strongly aromatic.

*Bark*.—Young trees, greyish green. In old trees the bark has deep fissures.

*Leaves*.—Two to four pairs of leaflets, with a terminal.

*Flower*.—Catkin.

*Fruit*.—Drupe-like, with fleshy husk.

*Price*.—1s. 6d. to 2s. 6d. per cubic foot. Burrs fetch a high price for cabinetmaking.

## WILLOW—

Many species; usually found near water.

*Bark*.—Very rough and irregular.

*Leaves*.—Vary with different varieties: generally long and pointed.

*Buds*.—Close to twig; sometimes bright yellow or red.

*Price*.—6d. to 1s. 4d. per cubic foot. If suitable for cricket bats value very great.

## CHAPTER VI

### ARBITRATION

**THE** subject of arbitrations, more especially with reference to the compulsory purchase of land, is of great importance to valuers, as they are not only called upon to give advice and to give evidence on behalf of the parties, but are frequently appointed also as arbitrators and umpires. Arbitrations are judicial trials by lay judges of matters in dispute. They are generally resorted to because of their convenience and the rapidity with which a decision may be obtained.

**How Arbitrations Arise.**—Arbitrations may arise either by agreement of the parties, by order of the Courts when an action is pending, or by Act of Parliament. Any present or future differences which might be the subject of civil litigation may be referred to arbitration. When an action is pending, the Court, subject to any right to have particular cases tried by a jury, may refer any question arising, for inquiry or report, to any official or special referee. The referee reports to the Court, giving the judge sufficient details for him to decide the question at issue, and the report may be adopted either wholly or in part. The Court also has power, where all the parties consent, or where any prolonged examination of documents or any scientific or local investigation is involved, or where the question in dispute consists wholly or in part of matters of account, to order the whole matter, or any question of fact arising therein, to be tried before a special referee or arbitrator respectively agreed on by the parties, or by an official referee or officer of the Court. Unless set aside by the Court, the report or award in such case is equivalent to the finding of a jury.

**Arbitration Act, 1889.**—The principal Act of Parliament regulating arbitrations is the Arbitration Act, 1889, and this should be carefully studied by any person contemplating referring matters to arbitration, or by any professional man interested in the conduct of such a case. The Act applies to all arbitrations except in so far as it is inconsistent with the submission, or with the Act of Parliament requiring the arbitration. There are a large number of such Acts, and several of them have sections as to appointment of arbitrators, times for award, etc., and provision for costs, etc., which will over-rule the Arbitration Act where these Acts apply. The remaining provisions of the Arbitration Act which are not inconsistent with the Act governing the arbitration will, however, be incorporated.

No action can be brought to enforce a reference to arbitration, but sec. 4 of the Act gives the Court power to stay proceedings in any action in respect of any matter which the parties have previously agreed to refer to arbitration. The application must be made by an interested party *before he takes any other steps in the action*, and the judge must be satisfied that such party was and is still able and willing to proceed with the arbitration. The Act also provides for the appointment of an arbitrator by the Court in the event of one party refusing or delaying to appoint.

The agreement to refer matters to arbitration is called a submission. This must be in writing and signed by the parties. The arbitrators and the Court will act in strict accordance with its terms, so that it is important that it should be carefully prepared. Section 2 of the Act enacts that any submission, unless a contrary intention is expressed therein, shall be deemed to include the provisions set forth in the first schedule of the Act, so far as they are applicable to the reference under submission. These provisions are of great importance, as any person simply signing an agreement to refer a dispute to arbitration, thereby agrees to all the terms of the schedule, *e.g.*, that he shall submit to be examined on oath or affirmation, that he will produce books, etc., and do all other things which during the proceedings on the reference the arbitrator or umpire may require. The schedule is accordingly quoted below.



## ARBITRATION ACT, 1889. SCHEDULE I.

*Provisions to be implied in Submissions.*

- (a) If no other mode of reference is provided, the reference shall be to a single arbitrator.
- (b) If the reference is to two arbitrators, the two arbitrators may appoint an umpire at any time within the period during which they have power to make an award.
- (c) The arbitrators shall make their award in writing within three months after entering on the reference, or after having been called on to act by notice in writing from any party to the submission, or on or before any later day to which the arbitrators, by any writing signed by them, may from time to time enlarge the time for making the award.
- (d) If the arbitrators have allowed their time or extended time to expire without making an award, or have delivered to any party to the submission, or to the umpire, a notice in writing stating that they cannot agree, the umpire may forthwith enter on the reference in lieu of the arbitrators.
- (e) The umpire shall make his award within one month after the original or extended time appointed for making the award of the arbitrators has expired, or on or before any later day to which the umpire, by any writing signed by him, may, from time to time, enlarge the time for making his award.
- (f) The parties to the reference, and all persons claiming through them respectively, shall, subject to any legal objection, submit to be examined by the arbitrators or umpire, on oath or affirmation, in relation to the matters in dispute, and shall, subject as aforesaid, produce before the arbitrators or umpire, all books, deeds, papers, accounts, writings, and documents within their possession or power respectively, which may be required or called for, and do all other things which, during the proceedings in the reference, the arbitrators or umpire may require.
- (g) The witnesses on the reference shall, if the arbitrator or umpire think fit, be examined on oath or affirmation.

- (h) The award to be made by the arbitrators or umpire shall be final and binding on the parties and the persons claiming under them respectively.
- (i) The costs of the reference and award shall be in the discretion of the arbitrators or umpire, who may direct to and by whom and in what manner those costs or any part thereof shall be paid, and may tax or settle the amount of costs to be so paid, or any part thereof, and may award costs to be paid as between solicitor and client.

**Advantage of Single Arbitrator.**—It is, as a rule, more satisfactory to appoint one arbitrator by mutual agreement if this can be managed. Where two arbitrators are appointed, they are apt each to side with the party appointing them, and thus do not act with that judicial impartiality which is desirable.

**Procedure.**—The arbitrators will sit together and take evidence in the presence of all parties. It is not necessary for the parties to be represented by counsel, and indeed counsel are sometimes barred by the terms of the submission. If one party is represented by counsel, he should give the others notice. The arbitrator has power to refuse to hear solicitors or counsel if he thinks proper. The proceedings generally follow the usual course of the Courts, but the arbitrators have full discretion as to procedure. All evidence tendered will generally be accepted unless it is objected to. The arbitrators, as a rule, have full discretion as to costs, and should one party insist on calling evidence which is irrelevant, the arbitrator can make him bear the cost of such evidence. After hearing all the evidence, the arbitrators formulate their award in private. They may call in legal or other professional advice as to the form. If the arbitrators cannot agree on any point, the whole reference goes to the umpire, unless the submission otherwise provides.

**Special Cases.**—Any arbitrator, umpire, or referee may at any stage of the proceedings, and shall, if so directed by the Court or a judge, state in the form of a special case for the opinion of the Court, any question of law arising in the course of the reference. An arbitrator or umpire has power also to

state the award, as to the whole or part thereof, in the form of a special case for the opinion of the Court. This is generally done by an alternative award. In the case of *Short's, Limited, v. London County Council*, the arbitrator stated that his award was for £7,165. He had not allowed for the 10 per cent. for compulsory purchase or anything for the reversion to the trade at the end of eighty years, but he stated a case, and if it was decided that these items should be included he allowed £716 for compulsory purchase and £10,062 for reversionary trade loss. The Court held that he was right in disallowing these items.

**The Award.** — The award should be (a) certain in its terms, (b) final as to its decision, (c) reasonable, consistent, and legal, (d) within the arbitrator's jurisdiction (it must not involve any other parties than those to the submission), (e) inclusive of all points submitted, (f) made within the time allowed by the submission or the Act, (g) signed by the arbitrators in each other's presence.

The Court may remit an award to the arbitrator for reconsideration, or in case of misconduct it may remove the arbitrator, or set the award aside.

**Arbitration or Valuation.** — It is very necessary to distinguish between an arbitration, where the matter is decided by the arbitrator judicially on evidence tendered by the parties, and a mere appraisement or valuation, where the valuer decides the matter from his own expert knowledge. In the latter case a valuer would be liable for negligence, but not when he is acting as an arbitrator. Upon the other hand, the Arbitration Act would not apply in the case of an appraisement or valuation.

## CHAPTER VII

### COMPENSATION FOR COMPULSORY PURCHASE

As in other parts of this volume, the legal aspect of the question will be referred to as briefly as possible, consistently with giving the reader the general knowledge necessary to understand the basis on which valuations are made. Further reference should be made to the standard law books on the subject.

**Lands Clauses Consolidation Act, 1845.**—It was found early in last century that it was quite impossible for railways, waterworks, and other works for the benefit of the public to be carried out, unless the promoters were given special powers of acquiring the necessary land. A very large number of private Acts were passed, each containing lengthy provisions for the acquisition of land. A Parliamentary Committee sat on the question in 1844, with the result that in 1845 the Lands Clauses Consolidation Act was passed, to consolidate in one Act the “provisions usually introduced into Acts of Parliament relative to the acquisition of lands required for undertakings or works of a public nature, and to the compensation to be made for the same.” This Act forms the basis of compensation law, and should be carefully studied by the surveyor.

The Act does not give any new powers for acquiring land; this must still be acquired by means of a public statute or private Act, usually referred to as “the special Act.” The Lands Clauses Act is incorporated with every Act subsequently passed, authorising the purchase or taking of lands for a public undertaking, except so far as it is inconsistent with such special Act, or is thereby specially excluded. The special Act commonly lays down special procedure with

reference to particular points, and will, in so far, override the general Act. The Act of 1845 is divided into parts, each introduced by descriptive words, and any of these parts may be incorporated in a special Act by mentioning these words, thus: "that part of the Lands Clauses Consolidation Act of 1845 which relates to the taking of lands otherwise than by agreement shall be incorporated herewith." It is important to realise the scope of the Act, and the headings of the various sets of clauses are accordingly set out below:—

### *Sections.*

- 6-15. Purchase of lands by agreement.
- 16-68. Purchase and taking of lands otherwise than by agreement.
- 69-80. (Application of) purchase money or compensation coming to parties having limited interest, or prevented from treating, or not making title.
- 81-83. Conveyance of lands.
- 84-91. Entry upon lands by the promoters of the undertaking.
- 92. As to selling part of house, etc.
- 93, 94. Small portions of intersected land.
- 95-98. Copyhold lands.
- 99-107. Copyhold lands being common or waste lands.
- 108-114. Lands subject to mortgage.
- 115-118. Lands charged with rent-charge, etc.
- 119-122. Lands subject to leases.
- 123. Limit of time for compulsory purchase.
- 124-126. Interests in lands which have by mistake been omitted to be purchased.
- 127-132. Lands acquired but not required for the undertaking. (Superfluous lands.)
- 133. Land tax and poor's rates to be made good. (Deficiency.)
- 134. Service of notices upon company.
- 135. Tender of amends.
- 136-149. Recovery of forfeitures, penalties, and costs.
- 150, 151. Access to special Act by all parties interested.

**Procedure.**—Intention to apply to Parliament for permission to introduce the private Bill must be advertised, and applications

made to owners, etc., of lands to be purchased, inquiring whether they assent, dissent, or are neutral. The owner's position requires careful consideration, even at this early stage, and he will generally be well advised to reply that he dissents. If it is considered desirable, he may apply for leave to oppose the Bill. In this way he may possibly obtain concessions difficult to obtain at a later stage. Thus, where compensation works are required by the Act, the company can only be required to do such as are necessary, having regard to the present user of the neighbouring land. If this is now agricultural, but has prospective building value, the bridges, etc., which the company are compelled to build may be insufficient for the proper development of the land. If the Bill is opposed, the company may, on condition of the opposition being removed, consent to make wider bridges, and so on. Similarly in the cases of large businesses, which would be damaged by removal, an agreement for reinstatement may often be obtained at this stage.

The special Bill is required by the Standing Orders of Parliament to be accompanied by plans showing the lands to be taken, and by books of reference giving, as far as possible, the names and addresses of all owners and occupiers affected. Limits of deviation within which the works are to be carried out, and sections showing the levels to be adhered to, are marked on the plans, and the Act gives the undertakers power to take such of these lands as may be required for the purposes of the Act. There is generally power also to acquire, by agreement, lands up to a certain limit, for general or extraordinary purposes. In some cases public authorities are empowered to take more land than is actually required, with a view to recoupment. Their Acts also frequently restrict the compensation for improvements to those affected at the date of the passing of the Bill, or even earlier.

It will be noticed that the undertakers are only empowered to purchase lands for the purposes of the Act. Any agreement to use the land for other purposes is illegal, and any other user can be stopped.

The undertakers will, in the course of the Bill through Parliament, be subjected to opposition by interested owners, and many of the objections will be removed by arrangement between the parties. Any agreements entered into should be embodied in the Bill and made contingent upon the passing of the Bill.

The clauses with reference to purchase by agreement empower persons under disability and with limited interest to sell land. The application of the purchase consideration is dealt with in a later part of the Act.

**Notice to Treat.**—After the passing of the Act, in the case of any land the company wish to acquire, they must serve notices to treat, upon all interested parties, except tenants for a year or less. The notice must state the particulars of the land required, demand of the parties the particulars of their estate or interest therein, and of the claims made by them in respect thereof, and state that the promoters are willing to treat for the purchase of the lands, and as to the compensation to be made to all parties for the damage that may be sustained by them by reason of the execution of the works.

The service of the notice to treat establishes a semi-contractual relationship. The company, on the one hand, is bound to proceed with the purchase, and, on the other hand, the owners are debarred from dealing with the land in any way so as to affect the interest of the undertakers. They cannot grant any new leases, etc., and must serve any notices to quit, etc., which the company require, and which they have power to serve.

**The Claim.**—After the notice has been served, the owner has twenty-one days in which to formulate his claim and agree with the company. A formal claim is not necessary except where the owner requires the compensation to be assessed by arbitration under sec. 23. It should be realised that once the claim has been made it cannot be withdrawn, and it is thus most important that a competent surveyor familiar with compensation law should be consulted, in order that the claim may include everything the owner is entitled to be compensated for.

**Jury Notice.**—On the expiry of the twenty-one days the promoters serve the owner with a notice of their intention to summon a jury. Such notice must specify the compensation which they are willing to pay. The owner may accept the offer, or within ten days give notice of his desire for the amount to be settled by arbitration. Otherwise, the promoters summon a jury in due course. The owner may accept the offer any time before

the verdict has been given, but he will have to pay his share of the costs if he accepts at the eleventh hour.

**Method of Assessing Compensation.**—Failing agreement, the Act prescribes that the compensation shall be assessed as follows :—

- A. BY JUSTICES (or a magistrate).
  1. Where the amount of the claim does not exceed £50 (sec. 22).
  2. In cases of yearly or inferior tenancy (sec. 121).
- B. BY ARBITRATION.
  1. Where the claimant gives notice of his desire for arbitration (sec. 23 or sec. 68).
  2. Where an owner, absent at the time compensation is awarded under sec. 64, returns and is dissatisfied.
  3. Superfluous lands (sec. 130).
- C. BY A JURY.
  1. Where claimant does not require arbitration as above (sec. 23).
  2. Where arbitrators or umpire have failed within the prescribed time to make award.
  3. Under sec. 68, when so required by the owner.
- D. BY A SURVEYOR APPOINTED BY TWO JUSTICES.
  1. In case of an owner absent from the country, or who cannot be found, or does not appear at hearing of jury (sec. 58).
  2. In case of common lands where commoners do not appoint committee (sec. 106).
  3. For deposit under sec. 85.

The provisions with regard to arbitration procedure are very full, but the Arbitration Act, 1889, will also apply where it is consistent with the Lands Clauses Act and the special Act. Thus, the appointment cannot be revoked except by consent; the award may be remitted for correction; arbitrators have power to alter mistakes in the award and to state the award in the form of a special case.

Questions of title are not within the jurisdiction of arbitrators or jury, but upon questions of quantum there is no appeal from their award or verdict.



**Costs.**—The question of payment of costs is laid down by the Act. In the case of an arbitration or inquiry by jury, if the sum awarded is greater than that previously offered by the promoters, the latter pay all costs. The amount of the offer should not be disclosed to the jury or arbitrator. If an equal or less sum is awarded, each party pays its own costs and one-half those of the inquiry.

Where an offer has been made by the promoters on serving a jury notice, and the owner requires the compensation to be assessed by arbitration, the promoters are not bound by the offer referred to, but may make another offer. This should be made at once on receipt of the notice requiring arbitration, before the owner has been put to any further expense. In the case of assessment by a surveyor appointed by justices, the expenses of the valuation are paid by the promoters. If the owner requires an arbitration and the surveyor's valuation is upheld, the arbitrators have power to settle costs, and to determine by whom they shall be paid. If, however, the sum awarded is greater than that fixed by the surveyor, all the costs of and incident to the arbitration must be paid by the promoters.

**What Compensation includes.**—Section 23 provides that the compensation shall include not only the value of the land to be taken, but also the damage, if any, to be sustained by the owner of the lands by reason of the severing of the lands taken from the other lands of such owner, or otherwise injuriously affecting such other lands by the exercise of the powers of this or the special Act, or any Act incorporated therewith.

The land taken must be assessed at its value to the owner, who must be regarded as an unwilling seller. Hence a liberal view of the value is justified. An addition of 10 per cent. is generally made to the value of land and buildings taken. It is doubtful whether this was originally intended to cover expenses of reinvestment, or was on account of possibilities of value which could not be foreseen, or merely as some recompense to the owner for his being turned out of his property. Where the land has special adaptability for the purpose for which it is required (*e.g.*, for a reservoir for a water-supply undertaking), this fact must be taken into account in assessing the compensation, unless it can be shown that there was no reasonable prospect of any other purchaser having or obtaining power to purchase the land for such a purpose.

Where some land is taken, the owner may claim for all damage done to adjoining or contiguous land in his ownership. This will include damage not only from the construction of the works, but also that due to their use as empowered by the special Acts ; *e.g.*, in *Regina v. Pearce* (1898), where the London School Board erected a school and took part of the land of the claimant, it was held that he was entitled to compensation for depreciation in value of houses, caused by the noise of school children at the school. It is important to notice that the claim where no land is taken can only be in respect of damage sustained by the construction of the works, and not by their subsequent use. If the damage is such as is shared by the general public, a person cannot establish a claim, although he may suffer to a much greater degree than anybody else ; *e.g.*, A is a large contractor, and by reason of the company's blocking up a road, all his vans have to go to and from his yard by a route which is a mile longer. He will have no claim in respect of this damage unless the company has taken some of his land contiguous to the yard in question. Any physical injury to premises must be compensated ; *e.g.*, alterations in level of roadway necessitating the construction of steps or alteration of approaches. If any damage is sustained by reason of improper construction, or use not authorised by the company's Acts, the remedy in any case will be by action for damages, and not by way of compensation claim.

**Severance.**—Damage by severance is specially mentioned. Thus, if the forecourt is taken from a house for the purpose of widening a road for a tramway, the land must be paid for, and compensation must also be given for the decreased value of the remainder of the premises.

**Trade.**—Injury to trade must be compensated for. This is generally done by allowing so many years' purchase of the net profits. If the trade is local and will be much damaged by change of premises, this will be a big item. Similarly in the case of a public-house, the purchase probably means the loss of the licence to the occupier and owner, as well as the loss of retail and freehold trade.

**Fixtures.**—Fixtures are generally taken at the cost of obtaining similar ones and fixing them in new premises, allowance being made for any which can be removed.

**Removal and Forced Sale.**—Loss by removal of goods, or alternatively by forced sale before the premises are handed over, must also be allowed for.

Another usual item is the removal of furniture and other chattels.

**Where no Land taken.**—Where no land is taken, it is obvious that it cannot be left with the promoters to take the initiative in having the compensation assessed. The owners in this case must proceed under the provisions of section 68. The damage must be to a particular property and not merely personal, and, as previously pointed out, it must be due to the works authorised by the special Act. No claim will be admissible in respect of damage caused by the subsequent use of the works when constructed. The damage, also, must be such as would render the promoters liable to an action for nuisance or trespass if they were not protected by their special Act. The point was very well put by Thesiger (afterwards Lord Justice) as counsel in the case of *McCarthy v. Metropolitan Board of Works*, and his definition was adopted in the judgment upon the case in the House of Lords. "Where by the construction of works there is a physical interference with any right, public or private, which the owners or occupiers of any property are by law entitled to make use of in connection with such property, and which right gives an additional market value to such property, apart from the uses to which any particular owner or occupier might put it, there is a title to compensation, if by reason of such interference the property, as a property, is lessened in value." Claims in respect of easements, such as rights of way, ancient lights, etc., are among the most important arising under this clause, but it must be clearly understood that no claim will lie for quasi-easements where they have not been enjoyed for a sufficiently long period to give prescriptive right. Similarly, there can be no claim for loss of prospect or similar amenities to which there is no natural right, and in respect of which easements cannot be acquired.

**Reinstatement.**—In the case of public buildings, and many important undertakings such as banks, electricity works, etc., which would be most costly to acquire, the promoters are often able to meet the difficulty by buying other suitable land and reinstating the owners thereon; e.g., the London County Council

under their Holborn to Strand Improvement reinstated the Gaiety Theatre, Gaiety Restaurant, Short's, and several other important concerns, and similarly in connection with the Westminster Improvement, the London Hydraulic Power Company and the London Electricity Supply Corporation.

**Part of House, etc.**—Section 92 of the Act is of great importance. This section enacts that “no party shall at any time be required to sell or convey to the promoters of the undertaking a part only of any house, or other building, or manufactory, if such party be willing and able to sell and convey the whole thereof.” When the promoters serve notice to take part, the owners may serve a counter-notice for the whole of the house, etc., to be taken. The promoters then have the option of taking the whole or of withdrawing the notice altogether. The words “house, or other building, or manufactory,” have been defined in a very inclusive sense by the Courts. They practically include all parcels of land and buildings which can be said to be in one occupation and used as a whole, although they may be in two or more parts not adjoining each other. It will be seen, then, that this section may be very oppressive on promoters, and thus it is frequently exempted by the inclusion in the special Act of what is called a “material detriment” clause; thus, “notwithstanding section 92 of the Lands Clauses Consolidation Act, 1845, owners of . . . and whereof parts only are required, may, if such portion can in the opinion of the jury, etc., be severed from the remainder of such property without material detriment thereto, be required to sell and convey to the company the portions only . . . ”

**Lessees, etc.**—The Act specially deals with compensation to lessees, yearly tenants, and tenants for a less term; but it should be mentioned that compensation cannot be paid for expectancy of renewal, however certain it might have been, unless there is a legal contract entitling the tenant to a renewal.

Having dealt with the general principles as they occur in the Act of 1845, it is now proposed to deal with important public Acts bearing on the subject. These either form the special Act referred to in the Act of 1845, or else are incorporated in another Act which authorises the taking of lands.

It will be seen that these Acts greatly vary the provisions of

the Act of 1845 to meet the special circumstances with which they are concerned.

**Metropolitan Paving Act, 1817.**—The Metropolitan Paving Act of 1817, or, as it is more generally known, Michael Angelo Taylor's Act, is frequently used by the Metropolitan Borough Councils in making street improvements. If the authority resolve that "any houses, walls, buildings, lands, tenements or *any part thereof*" prevent a street improvement, they can purchase by agreement or otherwise. The compensation is assessed by jury. The provisions as to costs are peculiarly favourable to the purchasing authority. If the assessment does not exceed that originally offered, the claimant must pay the costs of the inquiry, and the authority may deduct the amount from the sum payable. If there is no offer, or the verdict exceeds the amount of the offer, each party must pay its own costs. Only in the event of the owner being absent and unable to treat for the compensation does the authority have to pay all the costs.

**Railway Clauses Act, 1845.**—This is a consolidation Act embodying the clauses which were usually inserted in Acts authorising the construction of railways. The chief groups of clauses bearing with the subject of compensation are :

Sections 30-44, containing provisions for the temporary use and occupation of private roads within 500 yds. of the centre line of the railway, or land within 200 yds., compensation, failing agreement, to be assessed by two justices.

Section 68 requires the company to make necessary works, such as bridges, gates, drains, etc., for the accommodation of owners and occupiers of lands adjoining the line. If differences arise, they are to be settled by two justices, and arbitrators in making their award have no power to order accommodation works. They may, however, take into account the adequacy or otherwise of the accommodation works which the company has undertaken to construct.

Sections 77-85 relate to mines and minerals and the right of support, and similar provisions are inserted in the Waterworks Clauses Act, 1847, Electric Lighting Act, 1882, and Public Health Amendment Act, 1883.

By section 77 a conveyance of land does not include mines and minerals unless they are specially mentioned. The owner has

power to work these, and is not liable for taking away the support of the land above. But it is provided that the owner, lessee, or occupier of any mines or minerals lying within 40 yds. or other prescribed distance of the line of railway must give thirty days' notice to the company of his intention to work them. The company may inspect the mines, and if they consider that they are likely to damage their works they may purchase them, the compensation, failing agreement, to be settled under the terms of the Lands Clauses Act, 1845. If the company do not give notice to purchase, the owner may proceed to work the minerals, but must do so according to the usual methods of the district. The company must compensate for any interference which the railway causes in the working of mines.

Costs are at the discretion of the arbitrators in cases assessed by them under the Railways Clauses Act.

**Waterworks Clauses Act, 1847.**—This is also a consolidation Act, and as powers to collect and store water are necessary for waterworks undertakings, streams are included with lands in the powers of acquisition.

Sections 18-26 contain provisions relating to mines and minerals similar in effect to those in the Railways Clauses Act, but the procedure is different.

The Act gives a right of action, sustainable at any time, for damage due to flooding, etc., which could not be foreseen when the compensation for taking lands, etc., was assessed.

**Land Drainage Act, 1861.**—This Act provides for the appointment of Commissioners of Sewers with extensive powers of doing drainage works and making embankments, etc., for the benefit of agricultural land.

The following provision is peculiar: An owner who wishes to obtain an outfall for his drain on neighbouring land may apply to the owner for consent, and if terms can be arranged he may do the work. In the event of permission not being obtained, application may be made to two justices, who may authorise the work if they consider that the outfall would not damage the neighbouring land, or would only inflict such damage as could be compensated for. In the latter event, the justices have the power to assess the compensation and authorise the works.

**Education Acts, 1870-1903.**—These Acts enable education

authorities to acquire lands for the provision and enlargement of schools. The procedure is much the same as under the Public Health Act, 1875 (see below), but the inquiry and provisional order are made by the Board of Education. The provisions of the Lands Clauses Act with reference to compulsory taking of lands can only be put into force by provisional order of the Board of Education confirmed by Parliament.

**Public Health Act, 1875.**—This Act gives extensive powers to local authorities, and, together with a provisional order confirmed by Parliament, is the special Act under the provisions of the Lands Clauses Act. The chief powers for which land, which includes easements, may be acquired, are construction of sewers and sewage works (secs. 14-27), waterworks (sec. 51), hospitals and mortuaries (secs. 131 and 141), street improvements (secs. 154 and 155), and cemeteries (Public Health (Interments) Act, 1879). Section 127 of the Lands Clauses Act, 1845, is not incorporated, and the local authority has power to sell superfluous lands at the best possible price.

The local authority must publish notices of their intended undertaking, and serve notice on occupiers, owners, etc. This is followed by a local inquiry by the Local Government Board, and if they approve, the necessary power is given by provisional order, which must be confirmed by Parliament.

The arbitration clauses are somewhat different to those of the Lands Clauses Act, and the arbitrators have full discretion as to award of costs.

It is important to notice that "lands" under the Act includes easements. Thus, where the authority desire to make a sewer running through private land, they need only give compensation for the easement, and cannot be compelled to buy the surface or the rest of the land.

**Metropolis Management (Thames River Prevention of Floods) Amendment Act, 1879.**—This Act, which empowers the London County Council, to make works for the prevention of floods, and to acquire land compulsorily for this purpose, gives the standing arbitrator appointed by the Home Secretary very wide powers. He may take into account the benefit accruing to other lands of the same owner (betterment), and may include or exclude allowance for compulsory purchase,

generally consider all the facts of the case, and make such order as to costs as he may consider fair.

**Allotments Act, 1887.**—The compulsory powers of the Lands Clauses Act can only be put into force where the local authority has failed to obtain suitable land by agreement. Power is given by provisional order of the County Council confirmed by Parliament, and the compensation is assessed by a single arbitrator, who, in default of agreement, is appointed by the Local Government Board.

**Local Government Act, 1888.**—This Act, which created County Councils, gives them power to acquire land for the purposes of any of their duties and powers.

The compulsory powers of the Lands Clauses Act can only be used under the authority of a provisional order of the Local Government Board confirmed by Parliament.

**Local Government Act, 1894.**—This Act gives Parish Councils powers to acquire land for any purpose authorised by the Act. The compulsory clauses of the Lands Clauses Act are obtained by provisional order of the County Council confirmed by the Local Government Board. The provisions of the Railway Clauses Act, 1845, as to mines, and the arbitration clauses of the Allotments Act, 1887, are incorporated.

**Housing of the Working Classes Act, 1890.**—Many important compensation cases arise under this Act. The procedure varies under the different parts of the Act.

Part I. relates to the clearance of insanitary areas in urban districts. The local authority, upon the report of their medical officer, may make a scheme, which must be confirmed by the Home Secretary if the area is in London, or by the Local Government Board if elsewhere. This scheme must be published, and notices served on owners, occupiers, etc. A local inquiry is then made by the Government department, who make a provisional order, and present it to Parliament for confirmation.

The Lands Clauses Act is incorporated, except so far as relates to compulsory purchase, for which special provision is made in the second schedule to the Act. Section 68 of the Act of 1845 not being incorporated, no claim can be made for "injurious affection," but compensation may be claimed for easements under sec. 22 of the Housing Act.



The scheme is published with plans, and an arbitrator is appointed by the Government department. He ascertains the claims of the owners, etc., and the offers of the local authority, and after hearing both sides, makes his award on all the disputed cases. He has special powers to apportion rents under leases, rent-charges, etc. He may determine whether the authority must take the whole of a house, etc., where they only need a part, and may assess the compensation for omitted interests. There are special provisions for appeal to a jury in certain cases. The award is deposited in the office of the local authority and the confirming authority, and claimants are given notice to send in their claim and abstract of title. Within thirty days of receipt of the abstract the local authority gives certificates of the amounts due, and thirty days after this they pay the money and may enter on the land. The local authority takes receipts for the money, and these act as conveyances.

The method of assessing the compensation is important. This is laid down in sec. 21, which may be summarised as follows :—

The value is to be based on the fair market value at the time of making the valuation, due regard being had to the nature and the condition of the property, and the probable duration of the buildings in their existing state, and to the state of repair thereof. No additional allowance is to be made for compulsory purchase in the case of an area in respect of which an official representation has been made, or which, in the opinion of the arbitrator, falls under the description of property which may be constituted an unhealthy area under this part of the Act. If the rental is increased by reason of the premises being used for illegal purposes, or by reason of overcrowding, the arbitrator, so far as he bases his award on rent, shall take the rent at which the premises would let if used for a legal purpose, and if they were not overcrowded. If the premises are in defective repair, he shall value them as if in repair, and deduct the cost of putting them into repair. If they are unfit, and not reasonably capable of being made fit for human habitation, the value shall be the value of the land plus the value of the materials of the buildings thereon.

Part II. relates to single buildings and small areas in rural and urban districts. Power is given in this part for the removal of buildings which, though not insanitary themselves, stop

ventilation, or prevent proper remedies being taken to remove nuisances. The compensation in this case will be assessed under the Lands Clauses Act provisions, but the owner has the option to retain the site and take compensation for the removal of the building. If houses are unfit for habitation, closing orders are made, and if the defects are not remedied, demolition orders are made. A scheme may then be prepared embracing these premises. This must be published, and eventually confirmed by the Local Government Board after local inquiry. If a petition is lodged against the provisional order, it must be confirmed by Parliament.

In these cases the assessment will be by an arbitrator appointed by the Local Government Board, and he has power to give costs against the local authority, but may withhold them if his award is less than the offer. The value is assessed as in Part I., no compensation being paid for compulsory purchase, and the arbitrator is empowered to say if the whole or part of a house, etc., shall be taken. He also has power to decide if the demolition of any buildings betters the value of any adjoining premises, and if so, he may apportion the compensation representing such improved value among the buildings affected, and the local authority may levy improvement rates upon the occupiers accordingly.

Part III. gives power to the local authority to acquire lands for housing purposes under secs. 175-178 of the Public Health Act, 1875.

**London Building Acts.**—The London County Council may require a street to be laid out to a greater width than 40 ft., or where a building projects beyond the general building line and is demolished, they may require the new building to conform to the general building line. Compensation is to be made, and if the claim does not exceed £50, it may be recovered summarily. If the claim exceeds £50, it is to be assessed by arbitration as under the Lands Clauses Act, 1845.

An unusual power is given for the County Council to withdraw their requirements within two months of making them, if the compensation has not been previously assessed. Similar power is sometimes given to the Crown where Government departments are authorised to take lands by compulsion.

**Light Railways Act, 1896.**—The authority for the construction of light railways is obtained by a provisional order of the Light Railways Commissioners granted after local inquiry, and confirmed by the Board of Trade. The provisional order has the same effect as an Act of Parliament, and, together with the Act of 1896, will be the special Act.

The compensation for taking lands under this Act is assessed by a single arbitrator agreed on by the parties, or in default of agreement appointed by the Board of Trade. The Act provides a betterment clause—"Provided that in determining the amount of compensation, the arbitrator shall have regard to the extent to which the remaining and contiguous lands and hereditaments belonging to the same proprietor may be benefited by the proposed light railway."

**Railway Fires Act, 1905.**—The Railway Fires Act, 1905, makes railway companies liable to claims for compensation not exceeding £100 for damage to agricultural land by fire due to sparks, etc., from the company's engines. Compensation is to be assessed by two justices as under sec. 24 of the Lands Clauses Act of 1845.

**Underground (Tube) Railway Acts.**—The Acts conferring powers on underground (tube) railway companies generally empower the company to appropriate and use the subsoil and under-surface of lands without being required to take the whole of such lands or any part of the surface. The Acts also generally provide that compensation shall be paid for damage done to properties within a specified term of years by the *working* of the railway, notwithstanding that no part of such property was taken by the company.

**Ryde's Scale.**—The fees of surveyors in arbitration cases are generally based upon Ryde's Scale, compiled by Mr Walter Ryde.

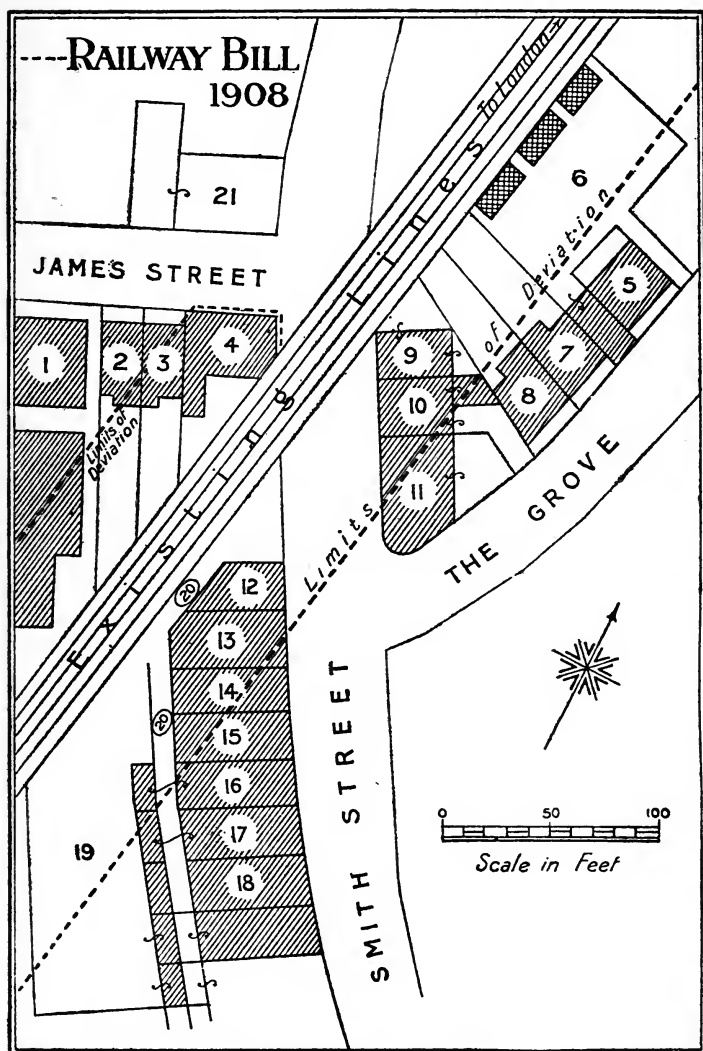
### Example of Valuation for Compensation

Having discussed the various Acts, examples of valuations for the purpose of ascertaining the compensation to be paid for compulsory purchase will now be given.

What compensation should a railway company pay in respect of the following properties in a London suburb which they have

powers to acquire for the purposes of widening an existing line and erecting a new station? Smith Street is an important main thoroughfare with a double line of tramway.

- No. 1. Engineering works held on 99 years' lease, with 50 years to run, at a ground rent of £20 per annum.
- „ 2. Freehold dwelling-house let on 7 years' repairing lease, with 3 years to run, at £80 per annum.
- „ 3. Freehold dwelling-house in the occupation of the owner.
- „ 4. Fully licensed public-house held by Brewery Co. on 80 years' lease, with 70 years to run, at a ground rent of £30 per annum, and let to the present occupier on lease with 5 years unexpired at £150 per annum, the house being tied to the brewers for all malt liquors.
- „ 5. Boarding-house held on 14 years' lease, with 10 years unexpired at £130 per annum.
- „ 6. Freehold nursery let on 42 years' lease, with 6 months to run, at a rent of £25 per annum. The occupier has erected lock-up shop and greenhouses.
- „ 7. Dwelling-house and office held by a solicitor on 14 years' lease, having 5 years to run, at a rent of £130 per annum. His landlord, the doctor next door, has a 99 years' lease of these premises, having 40 years to run, at a ground rent of £20 per annum.
- „ 8. Dwelling-house and surgery held by a doctor for the residue of 99 years' lease, having 40 years to run, at £20 per annum.
- „ 9. Small tailor's shop, with living-rooms over, held on yearly tenancy, at £50 per annum, direct from the freeholder.
- „ 10. Baker's shop with two storeys over and newly-erected bakehouse in rear, held from the freeholder on 7 years' lease, having 3 years to run, at a rent of £50 per annum. The tenant paid a premium of £200 on entry, and also erected the bakehouse last year at a cost of £100.
- „ 11. Bank, with manager's quarters on two floors over. The bank has a 99 years' lease of the premises, 9 years having expired, at a ground rent of £40 per annum.
- „ 12. Small tobacconist's shop, held on yearly tenancy from the freeholders, at £40 per annum.



[To face page 96.]



- No. 13. Grocer's shop, with two floors of living-rooms over. The tenant paid a premium of £900 three years ago for the remaining 13 years of a 99 years' lease at £20 per annum.
- „ 14. Greengrocer's and fruiterer's shop, with two floors of living-rooms over. The tenant paid a premium of £1,100 five years ago for the remaining 15 years of a 99 years' lease, at £20 per annum.
- „ 15. Ironmonger's shop with two floors of living-rooms over. The tenant paid £1,000 five years ago for the unexpired period of 15 years, at a ground rent of £20 per annum.
- „ 16-18. Furnishing draper's, with two storeys of show-rooms over Nos. 16 and 17, and three storeys of living-rooms over No. 18. The tenant holds from the freeholder 10 years unexpired of a 42 years' lease of the whole premises, at £300 per annum. He erected a work-room in rear of Nos. 17 and 18, and stables at rear of No. 16 three years ago.
- „ 19. Builder and contractor's yard, held from the freeholder for 10 years unexpired of 42 years' lease, at £40 per annum.
- The freeholds of Nos. 12 to 19 are in the same hands.
- „ 20. The premises Nos. 12 to 19 have each a right-of-way over the roadway marked 20.

*Freeholder's Claims*

No. 1. Ground rent	-	-	-	-	-	-	£20
50 years on 3½ per cent. table Y.P.	-	-	-	-	-	-	23.46
							<hr/> £469
Reversion after 50 years—							
Annual value	-	-	-	-	-	£200	
Perpetuity deferred 50 years on							
5 per cent. table Y.P. (In-							
wood, 1904, p. 98)	-	-	-	-	-	1.744	
							<hr/> 349
							<hr/> £818
Add 10 per cent. for compulsory purchase	-	-	-	-	-	-	82
							<hr/>
Carried forward	-	-	-	-	-	-	£900

98 VALUATION OF REAL PROPERTY

Brought forward - - - - £900

No. 2. The house is in good repair and the rent may be considered a fair one.

Rent per annum - - - - £80  
Y.P. perpetuity on 5 per cent. table - - 20

£1,600

Add 10 per cent. for compulsory purchase 160

1,760

„ 3. The house may be taken as of the same value as No. 2.

Value of house - - - - £1,600  
Add 10 per cent. for compulsory purchase 160

£1,760

Allow for removal - - - - 40

1,800

„ 4. Ground rent - - - - £30  
Perpetuity  $3\frac{1}{2}$  per cent. table Y.P. - - 28.57

£857

Add 10 per cent. for compulsory purchase - 86

943

The trade at the end of 70 years is too remote for compensation. See *L.C.C. v. Shorts*, p. 76.

„ 5. No land taken. The premises will be materially affected by the increased noise, etc., owing to the extra number of trains and to the lines being closer to the house, but as no injury is done by the construction of the railway no claim can be made.

„ 6. Rental value per annum - - - £75  
Perpetuity on 5 per cent. table Y.P. - 20

£1,500

Add 10 per cent. for compulsory purchase 150

1,650

Carried forward - - - - £7,053



# COMPENSATION FOR PURCHASE

99

Brought forward - - - - £7,053

Nos. 7 and 8. It will probably be possible to acquire the rear part of the premises only.

Annual value of houses reduced by £30 per annum each.

Ground rents - - - - £40

The security is reduced 40 years  
on 3½ per cent. table Y.P. 21.36

Do. 4 per cent. Y.P. - 19.79

Value reduced Y.P. - - - - 1.57

£63

Rental value depreciated per  
ann. - - - - £60

Perpetuity deferred 40 years on  
5 per cent. table Y.P. (Inwood,  
1904, p. 98) - - - - 2.84

170

£233

Add 10 per cent. for compulsory purchase 24

257

No. 9. Annual value - - - - £50

Deduct repairs, etc., 12½ per cent. - - - - 6

£44

Perpetuity on 5 per cent. table Y.P. - 20

£880

Add for compulsory purchase 10 per cent. 88

968

Carried forward - - - - £8,278

# 100 VALUATION OF REAL PROPERTY

	Brought forward	-	-	-	-	£8,278	
No. 10.	Rent per annum	-	-	-	-	£50	
	3 years on 5 per cent. table Y.P.	-	-	-	-	2.72	
						<hr/>	
						£136	
	Rent	-	-	-	-	£50	
	Premium £200 for 7 years on						
	6 per cent. table Y.P. 5.58	-	-	-	-	36	
	Bakehouse	-	-	-	-	6	
						<hr/>	
						£92	
	Probably worth now on lease	-	-	-	-	£100	
	Perpetuity deferred 3 years on 5 per						
	cent. table Y.P. (Inwood, 1904,						
	p. 98)	-	-	-	-	17.28	
						<hr/>	
						1,728	
						<hr/>	
						£1,864	
	Add 10 per cent. for compulsory purchase					186	
						<hr/>	
							2,050
„ 11.	Ground rent per annum	-	-	-	-	£40	
	Perpetuity Y.P., say	-	-	-	-	28	
						<hr/>	
						£1,120	
	Add 10 per cent. for compulsory purchase					112	
						<hr/>	
							1,232
„ 12.	Rent per annum	-	-	-	-	£40	
	Deduct repairs, etc., 12½ per cent.	-	-	-	-	5	
						<hr/>	
						£35	
	Perpetuity on 5 per cent. table Y.P.	-	-	-	-	20	
						<hr/>	
						£700	
	Add 10 per cent. for compulsory purchase					70	
						<hr/>	
							770
						<hr/>	
	Carried forward	-	-	-	-	£12,330	

# COMPENSATION FOR PURCHASE

101

Brought forward - - - £12,330

Nos. 13-19. Next 10 years.

Ground rent, No. 13	-	-	-	£20
14	-	-	-	20
15	-	-	-	20
19	-	-	-	40

£100

10 years on  $3\frac{1}{2}$  per cent. table Y.P. 8.32

— £832

Nos. 16-18, Rent - - - £300

10 years on  $4\frac{1}{2}$  per cent. table Y.P. 7.91

— 2,373

Reversion after ten years.

Full rents estimated at—

No. 13	-	-	-	-	£130
14	-	-	-	-	130
15	-	-	-	-	130
16-18	-	-	-	-	600
19	-	-	-	-	100

£1,090

Perpetuity deferred 10 years on 5 per cent. table Y.P. (Inwood,

1904, p. 98) - - - 12.28

— 13,385

£16,590

Add 10 per cent. for compulsory purchase 1,659

— 18,249

Total freeholder's compensation - - - £30,579

*Leaseholders' and Tenants' Compensation*

No. 1. Engineering Works.—Works worth

per annum - - - - £200

Deduct ground rent - - - 20

---

£180

50 years on 6 per cent. table Y.P. 15.76

---

£2,837

Add 10 per cent. for compulsory purchase 284

---

£3,121

Net profit per annum - - - £800

Deduct profit rental, £180,

and interest on £3,000 at

5 per cent. - - - 330

Allow one year's purchase - - £470

---

470

Machinery, fittings, and fixtures,

value - - - - £2,500

Allow per cent. - - - - 80

---

2,000

Removal of office furniture, etc. - - 30

---

£5,621

„ 2. Dwelling-house.—Allow for determination of lease, one year's

rent - - - - £80

Removal expenses, say - - 20

---

100

„ 3. Dwelling-house. Already dealt with.

---

Carried forward - - - £5,721

# COMPENSATION FOR PURCHASE 103

	Brought forward	-	-	-	£5,721
No. 4.	Public-house. — Brewery Company's compensation—				
	Rent	-	-	-	£150
	Deduct ground rent	-	-	-	30
					<hr/> £120
	70 years on 4 per cent. table Y.P.				23.39
					<hr/> £2,807
	Add 10 per cent. for compulsory purchase	-	-	-	280
					<hr/> £3,087
	Wholesale trade, 976 barrels at 10s.				
	per barrel	-	-	-	£488
	Allow Y.P.	-	-	-	10
					<hr/> 4,880
					<hr/> 7,967
„ 4.	Tenant's compensation—				
	The rent may be taken as full net profit	-	-	-	£300
	Take Y.P.	-	-	-	2
					<hr/> £600
	Fixtures	-	-	-	130
	Loss on stock and cost of removal, say	-	-	-	150
					<hr/> 880
„ 5.	Boarding-house.—No payment.				
„ 6.	Nursery.—No payment; company will not require premises before end of lease.				
	Carried forward	-	-	-	<hr/> £14,568

# 104 VALUATION OF REAL PROPERTY

	Brought forward	-	-	-	£14,568
Nos. 7 and 8.	Doctor's and solicitor's—				
	Lessee's (doctor's) interest—				
	Reduction in rental value, say	-	£30		
	35 years' deferred 5 years on 6 per				
	cent. table Y.P. (40 years Y.P. =				
	15.05; 5 years Y.P. = 4.21)	-	12.83		
				—	£325
	No. 8, reduction in annual value		£30		
	40 years on 6 per cent. table Y.P. -		15.05		
				—	451
	Special loss to doctor during construc-				
	tion of railway, owing to dirt, noise,				
	etc., say - - - - -				50
	(This is in additon to £30 re-				
	duced rent.)			—	826
No. 7.	Solicitor's house and office—				
	Tenant's interest—				
	Reduction in rental value, say	-	£30		
	5 years on 6 per cent. table Y.P. -		4.21		
				—	£126
	Special loss during construction of				
	railway, owing to dirt, noise, etc., say	-	50		
	(In addition to £30 reduced rent.)			—	176
„ 9.	Tailor's shop.—Premises will be required				
	before expiration of necessary notice.				
	Allow him to remain rent free for three				
	months, and allow for determining				
	tenancy and for loss by forced sale and				
	removal, say - - - - -				30
					—
	Carried forward	-	-	-	£15,600

# COMPENSATION FOR PURCHASE 105

	Brought forward	-	-	-	£15,600
No. 10. Baker's shop.—	Rental value of premises	£100			
	Deduct rent	-	-	-	50
					—
	Profit Rental	-	-	-	£50
	3 years on 6 per cent. table Y.P.	-			2.67
					—
					£134
	Add 10 per cent. for compulsory purchase	-			13
					—
					£147
	Net profits	-	-	-	£300
	Deduct profit rental	-	-	-	50
					—£250
	Allow Y.P.	-	-	-	1½
					— 375
	Trade fittings	-	-	-	60
	Removal of furniture, etc., say	-	-	-	30
					—
					612

„ 11. Bank premises. — The company had acquired, before the proposals were public, the option of purchasing the site numbered 21 at the corner of Smith Street and James Street for £1,500, and have agreed to reinstate the bank on this site with a lease to terminate at same time, and at same ground rent as their present site.

	Allow cost of building same size as present premises, 72,500 cub. ft. at 1s. 1d.	£3,927
	Disturbance to business	- 2,000
	Fixtures, fittings, and fireproof doors	- 600
	Removal of safes, documents, furniture, etc.	150
		— 6,677
		—
	Carried forward	- - - £22,889

# 106 VALUATION OF REAL PROPERTY

Brought forward - - - £22,889

No. 12. Notice will be served on next quarter-day by present landlord to expire six months later. As the company do not require the premises before then, no compensation will be payable.

„ 13. Present annual value of premises	-	-	-	£130
Deduct ground rent	-	-	-	20
				<hr/>
Profit rental	-	-	-	£110
10 years on 6 per cent. table Y.P.	-	-	-	7.36
				<hr/>
				£810

Add 10 per cent. for compulsory purchase 81

---

£891

Net profit - - - £450

Deduct profit rental - £110

5 per cent. on £600 capital - 30

---

140

---

£310

Allow Y.P. - - - 2

---

620

Fixtures - - - 70

Loss by forced sale - - - 160

Removal of furniture, etc. - - - 40

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1,781

„ 14. Lease same as No. 13 - - - £891

Net profit - - - £350

Deduct profit rental - - - 110

---

£240

Allow Y.P. - - - 1½

---

360

Fixtures - - - 30

Removal of furniture, etc. - - - 40

---

1,321

Carried forward - - - £25,991



# COMPENSATION FOR PURCHASE 107

	Brought forward	-	-	-	£25,991
No. 15.	Lease same as No. 13	-	-	-	£891
	Net profit	-	-	-	£450
	Deduct profit rental	-	-	£110	
	5 per cent. on £800 capital	-	-	40	
		-	-	150	
		-	-	£300	
	Allow Y.P.	-	-	-	2½
		-	-	-	750
	Fixtures	-	-	-	50
	Forced sale and removal of stock	-	-	-	200
	Removal of furniture, etc.	-	-	-	40
		-	-	-	1,931

Nos. 16-18.	The premises are specially suited to the present business, and are worth to the occupier per annum					£600
	Deduct rent	-	-	-	-	300
	Profit rental	-	-	-	-	£300
	10 years on 6 per cent. table Y.P.	-	-	-	-	7.36
		-	-	-	-	£2,208
	Add 10 per cent. for compulsory purchase	-	-	-	-	221
		-	-	-	-	£2,429
	Net profit	-	-	-	£1,800	
	Deduct profit rental	-	-	£300		
	5 per cent. on £4,000 capital	-	-	-	200	
		-	-	-	500	
		-	-	-	£1,300	
	Allow Y.P.	-	-	-	3	
		-	-	-	3,900	
	Loss by forced sale and removal	-	-	-	800	
	Fixtures and fittings	-	-	-	400	
	Removal of household furniture	-	-	-	200	
		-	-	-	7,729	
	Carried forward	-	-	-	£35,651	

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Brought forward	-	-	-	£35,651
No. 19. This yard is specially well placed, and is				
worth to the present occupier a rent of	£100			
Deduct head rent	-	-	-	40
				<hr/>
Profit rental	-	-	-	£60
10 years on 6 per cent. table Y.P.	-	-	-	7.36
				<hr/>
				£442
Add 10 per cent. for compulsory purchase				44
				<hr/>
				£486
Net profit	-	-	-	£1,000
Deduct profit rental	-	£60		
5 per cent. on £1,000				
capital	-	-	-	50
				<hr/>
				110
				<hr/>
				£890
Allow Y.P.	-	-	-	1
				<hr/>
				890
Cost of removal, fixtures, etc.	-	-	-	200
				<hr/>
				1,576
				<hr/>
Lessee's and occupier's interests	-	-	-	£37,227
Freeholder's interests. Total (p. 101)	-			30,579
				<hr/>
				<u>£67,806</u>

## CHAPTER VIII

### ENFRANCHISEMENT OF COPYHOLDS

**Definition and Origin of Copyhold Tenure.**—Copyhold is described as a base tenure of land, parcel of a manor, by copy of court roll, at the will of the lord, and according to the custom of the manor. Customary freeholds and tenant right estates are of the same nature.

Under the feudal system the king granted lands to the tenants *in capite* in return for certain military services. These lords again granted their lands to other tenants in return for fealty and certain services. Part of the lands of the manor were generally held by tenants in return for customary payments or services. These lands upon the decease of the tenant were granted to his customary heirs upon certain payments being made to the lord. After a time the courts of equity recognised a right in these tenants to the land, so long as the customs of the manor were fulfilled.

The tenants have no ordinary title deeds, the only evidence of their right being a copy of the entry in the court rolls of the manor, and thus they are called Copyholders. They are said to hold "by the will of the lord," but the right of the lord to determine the tenancy has become obsolete so long as the customary payments are made. Conveyance is effected by surrender by the assignor and admittance of the assignee upon payment of certain fines. Upon decease of the tenant, the heir is admitted upon payment of the fines, etc., and upon failure of heirs the estate escheats to the lord.

A manor always included two or more freeholders who held of the lord of the manor and swore fealty to him. Where there are not two freeholders the estate is called a reputed manor.

By the statute called *Quia Emptores* (1290), upon grant of land in fee simple the grantee holds of the superior lord of the

grantor, and thus nearly all land held in fee simple is now held direct from the Crown, and the freeholder does not owe fealty real or nominal to any other superior lord. Since this statute no new manor can be formed, and no fresh land can now be granted as copyhold.

Copyholds may either be : (1) Copyholds of inheritance. In these cases the lands only escheat to the lord upon failure of customary heirs of the tenant, or where the estate is entailed, only on failure of heirs in tail. (2) Copyholds for life or lives, frequently found in ecclesiastical manors in the west of England. The estate reverts to the lord at the end of the last of the lives, but there is often a right of renewal, which, however, must have been exercised from time immemorial, at a fixed fine. (3) Copyholds for years, held by the tenant for a term of years, generally renewable in the same manner as copyhold for lives.

**Customs and Incidents of Copyhold Tenure.**—Customs are of two kinds : (1) General customs, appertaining to all manors and (2) customs local, or applying to particular manors. Any custom whatever must be immemorial and cannot be altered. It must also be reasonable and definite. Particular customs must be specially pleaded and proved.

*Descent* is generally according to the ordinary rules, but in some cases the lands descend according to a particular custom of the manor.

*Entail.*—Tenants cannot entail their land unless a particular custom so allows.

*Leasing.*—As a general rule, the tenant cannot make leases for more than one year.

*Mortgages* are effected by surrender upon the condition that the money is repaid, admission of the mortgagee only taking place upon failure of repayment.

*Corporations.*—A lord can refuse to admit a corporation as it is immortal, and he would lose future fines, etc. If a corporation has compulsory powers to acquire land, it must enfranchise within three months of enrolment, or within one month of taking possession of the land.

The principal incidents of copyhold tenure are—

*Fines*, paid to the lord on change of tenancy, sometimes only on assignment, but in other cases also upon the death of the

tenant. They are in some manors also payable upon the death of the lord. Fines are either (1) certain, generally of small amount, or (2) arbitrary, but the latter must not exceed two years' improved annual value. The improved annual value is the fair rack rent at the time, less quit-rent and annual cost of repairs. There may be more than one fine payable in respect of the same tenement.

*Heriots*, similar to fines. In most cases these were originally the best beast or second best beast, etc., on the tenement, now generally commuted to a money payment.

*Reliefs*.—Small money payments similar to fines certain.

*Quit-rents*.—Small annual payments.

*Chief-rents*.—Similar to quit-rents, but appertaining to freeholds.

*Forfeiture* of the estate to the lord upon non-observance of the customs of the manor, or upon other acts detrimental to the lord's interest.

*Timber* generally belongs to the lord of the manor, but as a rule he may only enter upon permission of the tenant.

*Estovers or Botes*.—Right of the tenant to take wood for his use on the holding, sometimes limited to particular use, such as hedge-bote, house-bote, etc.

*Common*.—Rights to use of the waste land, etc., of the manor for the tenant's use in his holding, *e.g.*, common of estovers, common of turbary, common of piscary, common of pasturage. Common of vicanage arises when the waste lands of two manors adjoin, and is the mutual right of the tenants of each manor over the waste lands of the other.

*Minerals* are generally the property of the lord, but in many cases he must not enter without the permission of the tenant.

*Sporting and fishing rights* are generally vested in the lord.

*Enfranchisement* is the right of the tenant or lord to convert the copyhold into freehold upon commutation of the fines, etc. The law discourages customary tenure, and the Copyhold Act, 1894, gives the lord or tenant power to enfranchise any copyhold, and the lord or tenant of any land liable to any heriot, quit-rent or any other manorial incidents whatsoever has power to extinguish such rights or incidents. Section 42 of the Act enacts that (1) "On the admittance or enrolment of any tenant, the steward of the manor shall, without charge, give to the tenant

admitted or enrolled, a notice of his right to obtain enfranchisement. (2) The notice shall be in the form contained in that behalf in the First Schedule to this Act, or in a form to the like effect. (3) If a steward neglects on any admittance or enrolment to give the notice required by this section, he shall not be entitled to any fee for that admittance or enrolment."

**Enfranchisement.**—Enfranchisement can be carried out (1) by agreement under the common law, (2) by agreement under the Copyhold Act, 1894, or (3) by compulsory enfranchisement under the Act of 1894.

Enfranchisement at common law is carried out by an agreement between the lord and the tenant similar to a contract for sale and purchase. The agreement states the amount of compensation, or the manner in which it is to be arrived at, and is followed by a conveyance of the freehold or release of the seigniorial rights of the lord. Proof of title is necessary, and the instrument only avails to the extent of the lord's interest. The lord's right to escheat will cease, and if there is no reservation, the rights of the lord to minerals, timber, and sporting, and the tenant's rights of common, will be relinquished. The compensation is generally arrived at in a somewhat rough-and-ready manner, three or four years' purchase of the fines being taken, and so on. The steward will be entitled to compensation for loss of future fees.

Voluntary enfranchisement is effected under the Act by an agreement with the consent of the Board of Agriculture, followed by a deed of enfranchisement in approved form and confirmed by the Board. The agreement fixes the compensation, or the manner in which it is to be arrived at. The steward is entitled to compensation, but no scale is provided in the Act in cases of voluntary enfranchisement. The enfranchisement is complete, even if the lord's interest is limited, provided proper notices have been served.

Enfranchisement may be required by the lord or tenant under the compulsory provisions of the Act. The manner of arriving at the compensation to be paid is laid down in the Act, and the enfranchisement is effected by an Award of the Board of Agriculture.

When the enfranchisement is carried out under the provisions

of the Act, escheat is not affected, but the lord's rights to timber are removed unless otherwise provided, and all customs cease, the land being held according to the ordinary law of the land. The custom of gavelkind still remains, however, if the land is in Kent. The tenant's rights of common and the lord's rights to mines, minerals, franchises, sporting, fishing, etc., remain unless otherwise specially provided.

Where the consideration is fixed by valuers, sec. 6 provides as follows: (1) "In making a valuation for the purpose of ascertaining the compensation for a compulsory enfranchisement under this Act, the valuers shall take into account and make due allowance for the facilities for improvements, customs of the manor, fines, heriots, reliefs, quit-rents, chief-rents, forfeitures, and all other incidents whatsoever of copyhold or customary tenure, and all other circumstances affecting or relating to the land included in the enfranchisement, and all advantages to arise therefrom. Provided that they shall not take into account or allow for the value of escheats. (2) The value of the matters to be taken into account in the valuation shall be calculated as at the date of the notice to enfranchise."

By sec. 66 of the Act, the Board of Agriculture are required to frame and publish a scale of compensation for the enfranchisement of land from the several rights and incidents specified or referred to in the Act. The scale is not binding upon the lord or tenant, but is intended to facilitate agreements, and the party requiring enfranchisement must state whether he is willing to adopt it. As the scale is adopted in the great majority of cases of both voluntary and compulsory enfranchisement, it is printed below.

*Scale of Compensation in ordinary cases of Enfranchisement of Copyholds of Inheritance, framed pursuant to sec. 66 of the Copyhold Act, 1894.*

1. *Fines Arbitrary*.—In fine arbitrary cases, when a fine is payable on alienation by, as well as on the death of, a tenant, the compensation for fines should not exceed the number of years' annual value of the property according to the age of the tenant as set forth in the table hereto annexed.

2. The table is calculated on the principle that a fine of two years' annual value is payable on each change of tenancy; there-

fore, in those manors in which the customary fine on alienation by, or on the death of, a tenant is less than two years' annual value, a proportionate reduction should be made in the amount of the compensation.

3. In estimating the annual value of the property, no deduction should be made for land tax, but the quit-rent should be deducted, and, where there are buildings, allowance should be made for keeping the buildings in repair. The gross annual value of the land for the poor rate assessment may be used, when applicable, as the basis for ascertaining the annual value.

4. When there are facilities for improvement, or the land has present or prospective building value, one twenty-fifth part of the fee simple value may be taken as the annual value.

5. *Fines Certain*.—In fine certain cases when a fine is payable on alienation by, as well as on the death of, a tenant, the compensation for fines may be calculated by multiplying the amount of the fine by one-half of the number of years' purchase given in the table according to the age of the tenant.

6. *Reliefs*.—The amount of compensation for a relief may be calculated in like manner as a fine certain.

7. *Heriots*.—The compensation for a heriot payable on alienation by, as well as on the death of, a tenant, may be calculated by multiplying the value of the heriot by one-half of the number of years' purchase given in the table according to the age of the tenant.

8. The value of a heriot may generally be ascertained from the average value of the last three heriots taken or paid in respect of the property to be enfranchised. If that information cannot be obtained, or will not apply, the following circumstances should be taken into consideration in fixing the value of a heriot: namely, the nature of the heriot, the character and value of the property, the condition in life of the tenant, and also whether the heriot can be seized as well without as within the manor.

9. *When Fine Payable only on one of the events of Alienation or Death*.—The table being calculated on the assumption that fines and heriots are payable both on alienation *inter vivos* by a tenant and on his death, when a fine, whether arbitrary or certain, or a heriot, is payable only on one of those events, then only one-half of the compensation calculated as previously directed should be given



10. *When Fine Payable on Death of Lord.*—In manors in which fines or heriots are payable on the death of the lord, as well as on alienation by, or on the death of, a tenant, the compensation on enfranchisement should be increased according to the nature and amount of the customary fine or heriot payable in the manor on the death of the lord.

11. *Quit-rents and other Annual Payments.*—The compensation for quit-rents, free-rents, and other annual rents, services, or payment, should be calculated at 25 years' purchase.

12. *Timber.*—Compensation for timber should be ascertained as follows: When by the custom of the manor the lord can enter upon the land, and cut and carry away the timber without the consent of the tenant, its whole value, after making a sufficient allowance for repairs, should be given to the lord. But if the lord cannot enter and cut without the consent of the tenant, one-half only of its value, after making a sufficient allowance for repairs, should be given. If, however, there be any special custom in the manor relating to timber, such custom should be regarded.

13. *Forfeitures, etc.*—The compensation for forfeitures and all other incidents of copyhold tenure not hereinbefore provided for, should not exceed 20 per cent. of the annual value of the property. The annual value may be ascertained as in paragraphs 3 and 4.

14. *Escheat.*—The right of escheat being reserved to the lord under the Copyhold Act, 1894, its value is not to be taken into consideration.

15. *Special Customs or Circumstances.*—If there be any special customs of the manor, or special circumstances affecting or relating to the land to be enfranchised, or special advantages to arise from the enfranchisement, they should be taken into consideration, and due allowance should be made in respect of them.

16. *Interest.*—Interest should be made payable by the agreement or decision on the amount of the compensation at the rate of four pounds per cent. per annum from the date of the notice requiring the enfranchisement to the date of payment of the compensation, unless the compensation is paid by way of an annual rent-charge under the Act.

17. The foregoing scale is for guidance only, and is not binding as a matter of law in any particular case; but the party

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requiring enfranchisement should, in accordance with the Act, state to the other party whether or no he is willing to adopt the scale.

TABLE REFERRED TO IN THE FOREGOING SCALE OF  
COMPENSATION FOR ENFRANCHISEMENT

Age of Tenant.	Number of Years' Purchase.	Age of Tenant.	Number of Years' Purchase.	Age of Tenant.	Number of Years' Purchase.
5 or under }	2.29	37	3.26	70	4.50
6	2.32	38	3.29	71	4.54
7	2.34	39	3.33	72	4.57
8	2.37	40	3.36	73	4.60
9	2.40	41	3.40	74	4.63
10	2.43	42	3.43	75	4.67
11	2.46	43	3.46	76	4.70
12	2.49	44	3.50	77	4.73
13	2.52	45	3.53	78	4.76
14	2.55	46	3.57	79	4.78
15	2.58	47	3.60	80	4.81
16	2.61	48	3.64	81	4.83
17	2.63	49	3.67	82	4.85
18	2.66	50	3.71	83	4.88
19	2.69	51	3.75	84	4.90
20	2.73	52	3.78	85	4.92
21	2.76	53	3.82	86	4.94
22	2.79	54	3.86	87	4.95
23	2.82	55	3.90	88	4.97
24	2.85	56	3.93	89	4.99
25	2.88	57	3.97	90	5.00
26	2.91	58	4.01	91	5.02
27	2.94	59	4.06	92	5.03
28	2.97	60	4.10	93	5.05
29	3.00	61	4.14	94	5.06
30	3.04	62	4.18	95	5.08
31	3.07	63	4.23	96	5.10
32	3.10	64	4.27	97	5.12
33	3.13	65	4.31	98	5.13
34	3.16	66	4.35	99	5.15
35	3.20	67	4.39	100 or upwards }	5.16
36	3.23	68	4.43		
		69	4.47		

In constructing this table a fine arbitrary on admission has been taken as equivalent to two years' annual value, and whilst the average fine interval has been assumed to be 14 years, regard has been had to the age of the tenant on the rolls.

By sec. 9 of the Act it is enacted that "On a compulsory enfranchisement the tenant shall pay to the steward the

compensation mentioned in the second schedule of this Act," which is as follows :—

*Scale of Steward's Compensation*

When the consideration for the enfranchisement—

Does not exceed £1	-	-	-	-	£0	5	0
Exceeds £1 but does not exceed £5	-				0	10	0
" 5	"	"	10	-	1	0	0
" 10	"	"	15	-	2	0	0
" 15	"	"	20	-	3	0	0
" 20	"	"	25	-	4	0	0
" 25	"	"	50	-	6	0	0
" 50	"	"	100	-	7	0	0
For every additional £50 or fractional part of £50 over and above the first £100	-				0	10	0

The compensation to be exclusive of stamps and paper or parchment or map or plan, which are to be paid for by the tenant.

The expenses of the enfranchisement are borne in the case of voluntary enfranchisement as agreed by the parties, or in default of agreement, as the Board direct. The expenses of compulsory enfranchisement are all borne by the person requiring the enfranchisement. In either case no sum is due for expenses until certified by the Board. All expenses, whether for proof of title, production of documents, expenses of witnesses, or otherwise incidental to an enfranchisement, will be deemed expenses of the enfranchisement.

By sec. 66 (1) (b) the Board issue a scale of allowance to valuers for their services under the Act. The present scale is as follows :—

SCALE OF ALLOWANCE TO VALUERS for their services in the execution of the Copyhold Act, 1894, framed pursuant to sec. 66 of the said Act.

Allowance in respect of the annual value of the property enfranchised :—

Annual Value.	Allowance.
Not exceeding £10	£2 10 0
" 25	3 0 0
" 50	4 0 0

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Annual Value.					Allowance.		
Not exceeding	£75	-	-	-	£5	0	0
„	100	-	-	-	6	0	0
„	125	-	-	-	7	0	0
„	150	-	-	-	8	0	0
„	200	-	-	-	9	0	0
„	250	-	-	-	10	0	0

For every £50 above £250 annual value, £1.

In addition to the above, a further allowance in respect of so much of the compensation as is not payable for fines, or based on annual value, of 5 per cent. upon the amount of such compensation up to £50, and  $2\frac{1}{2}$  per cent. upon the amount of such compensation, if any, in excess of £50.

This scale does not include travelling and other expenses out of pocket, and is applicable only to cases of an ordinary character in which there are no special circumstances.

Charges for tracings or plans, when necessary, will be allowed ; but an Ordnance Survey Map should be used when available.

When a case is referred to an umpire, the valuers will be entitled to an additional allowance of from £2 upwards, regard being had to the time occupied for attendance before the umpire.

This scale is for guidance only.

The fees charged by the Board of Agriculture under the Act are set out below.

FEES TO BE TAKEN in respect of transactions under the Copyhold Act, 1894, in accordance with the provisions of the Inclosure, etc., Expenses Act, 1868 (31 & 32 Vict., c. 89).

On Enfranchisements—

Where the enfranchisement consideration money

does not exceed the sum of	£1	-	-	£0	5	0
Exceeding	£1	and not exceeding	£5	-	-	0 10 0
„	5	„	10	-	-	1 0 0
„	10	„	15	-	-	1 10 0
„	15	„	20	-	-	2 0 0
„	20	„	25	-	-	2 10 0
„	25	„	50	-	-	3 0 0
„	50	„	75	-	-	3 10 0
„	75	„	100	-	-	4 0 0
„	100	„	125	-	-	4 10 0

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Exceeding £125 and not exceeding £150 -	-	£5	0	0
„ 150 „ 175 -	-	5	10	0
„ 175 „ 200 -	-	6	0	0
„ 200 „ 250 -	-	6	10	0
„ 250 „ 300 -	-	7	0	0
„ 300 „ 350 -	-	7	10	0
„ 350 „ 400 -	-	8	0	0
„ 400 „ 450 -	-	8	10	0
„ 450 „ 500 -	-	9	0	0
„ 500 „ 550 -	-	9	10	0
„ 550 „ 600 -	-	10	0	0
For every additional £100 or part of £100 -	-	0	10	0

Where the enfranchisement consideration is a Rent-charge, the fee will be computed on the value of the Rent-charge calculated at 25 years' purchase.

Where the enfranchisement consideration is land, the fee will be computed on the Fee-simple value of the land.

Where the enfranchisement terms are fixed by the Board on agreed data, at the request of the parties, a fee of - - - - -	1	0	0
On every certificate of charge on property enfranchised, a fee of - - - - -	0	10	0
On every certificate fixing the sum of money in consideration of which a Rent-charge may be redeemed, a fee of - - - - -	0	10	0
On every consent by the Board to the application of enfranchisement money (or the stock in which it may have been invested) to the purchase of land. For every £50 or part of £50 expended - - - - -	0	2	6
On every decision by the Board or an Officer of the Board, a fee of - - - - -	2	0	0
On every Award defining the boundaries of lands for the purpose of enfranchisement a fee of -	5	0	0
On the amendment of any Award, or Deed of Enfranchisement or other Instrument confirmed under the Copyhold Acts, a fee of -	2	0	0

*Examples of Valuation for Enfranchisement*

What consideration should be paid by a tenant aged 45 who has given notice to enfranchise his tenement, which consists of farm house, land, and buildings of a rental value of £95 per annum, the landlord paying the land tax, £2. 15s. od., and tithe (present septennial average, £8), and doing repairs to the house? The custom of the manor is a fine arbitrary on each admission, heriot of best beast on the death of tenant, and there is a quit-rent of £1. The timber is valued at £60. The tenant has right to estovers, and the lord cannot enter without his consent.

Rental value - - - - -	£95
Deduct—	
Tithe - - - - -	£8
Repairs, say - - - - -	5
Quit-rent - - - - -	1
	—
	14
	<hr/>
Fineable annual value	81
Tenant's age 45—	
Fine arbitrary due on each admission Y.P. - - -	3.53
	<hr/>
	286
Heriot—no information as to value, possibly a horse, value £25,	
Due on death only Y.P. $\frac{3.53}{4}$ - - - - -	22
Quit-rent £1, Y.P. 25 - - - - -	25
Timber valued at - - - - -	£60
Deduct estovers - - - - -	6
	—
	54
Take one-half - - - - -	27
Forfeiture, etc., 20 per cent. of £81 - - -	16
	<hr/>
	<u>£376</u>

In addition to the enfranchisement consideration the tenant would have to pay the steward's compensation, fixed by the second schedule of the Act, which in this case would amount to £10.

The tenant being the party requiring enfranchisement would

also have to bear the whole of the expenses of the enfranchisement. These would of course depend upon the circumstances of the case and whether the matter was referred to one or two valuers, and in the latter case if the services of the umpire were required. The Board of Agriculture scale of allowances for valuers is given on pp. 117, 118, *ante*. Fees would also be payable to the Board for its services. The scale on which they are based is given on pp. 118, 119.

### *Example*

A piece of copyhold land now let for pasture at £20 per annum has become valuable for building purposes, and is estimated to be worth £2500. The tenant, aged 48, wishes to enfranchise the land and to develop it for building. What compensation should he pay? The custom of the manor is a fine arbitrary due on death only, and a heriot of £4 in respect of each tenement, also due on death, and there is a quit-rent of £1. 10s.

Capital value - - - - -	£2500
<hr/>	
As the land has building value, take the fineable annual value as 1/25 of capital value - - -	100
Fine arbitrary due on death only. Tenant aged 48, Y.P. $\frac{3.64}{2}$ - - - - -	1.82
	<hr/>
	182
Heriot on death only £4, Y.P. $\frac{3.64}{4}$ - - -	3.64
Quit-rent £1. 10s., Y.P. 25 - - - - -	37.5
Forfeiture, etc., 20 per cent. on £100 - - -	20
	<hr/>
	<u>£243</u>

There would also be steward's compensation of £8. 10s. and expenses of enfranchisement, including the fees of the Board of Agriculture.

### *Example*

The lord of the manor has given the tenant of a farm notice to enfranchise. Licence upon payment of a fee of £10 every seven years has over a long period been granted to the tenant to demise the premises, and they were let last year on three years' agreement at £150 per annum, the tenant doing all repairs.

The last licence fee was paid four years ago. There is a fine certain of £200 payable upon death of tenant or alienation of the copyhold, and the copyholder's age is 65. There is also a fine certain of £50 payable upon the death of the lord. The present lord's age is 60. There is a heriot payable upon death of tenant, the last three averaging £25. The timber is valued at £120, the tenant having the right to estovers, and the lord cannot enter without the tenant's consent. What consideration should the tenant pay?

Annual value -	-	-	-	-	-	-	-	-	£150
<hr/>									
Tenant aged 65.									
Fine certain payable on both events	£200,								
Y.P. $\frac{4 \cdot 31}{2}$	-	-	-	-	-	-	-	-	£431
Lord aged 60.									
Fine certain payable on death	£50,	Y.P.	$\frac{4 \cdot 10}{4}$	-					51
Heriot of £25 payable on death only,	Y.P.	$\frac{4 \cdot 31}{4}$	-						27
Timber valued at	-	-	-	-	-	£120			
Deduct estovers	-	-	-	-	-	10			
									<hr/>
									£110
Take one-half	-	-	-	-	-	-	-	-	55
Licence, £10 every 7 years.									
Deferred 3 years at 5 per cent. Y.P.	-	-	0.86						
„ 10 „ „ „	-	-	0.61						
„ 17 „ „ „	-	-	0.44						
„ 24 „ „ „	-	-	0.31						
									<hr/>
									2.22
Take Y.P. as 3	-	-	-	-	-	-	-	-	30
Forfeiture, etc., 20 per cent. of £150	-	-	-	-	-	-	-	-	30
									<hr/>
									<u>£624</u>

In this case the steward's compensation would be payable by the tenant, but the expenses would be payable by the lord of the manor.

Where several persons are admitted for successive lives, or as joint tenants (that is, as tenants holding under one title with the





*Enfranchisement Consideration*

Annual value - - - - -	£250
Fine arbitrary, on death or alienation.	
Longest of two lives aged 60 and 55 equals	
One life aged 51, Y.P. - - -	3.75
Joint tenants take Y.P. - - -	$3.75 \times 1\frac{1}{2} = 5.62$
	<hr/>
	£1405
Heriots at, say, £20, Y.P. $\frac{3 \cdot 75}{2}$ - - -	37
Quit-rent £2, Y.P. 25 - - -	50
Timber valued at - - - - -	£150
Less estovers - - - - -	20
	<hr/>
	130
Forfeiture, etc., 20 per cent. of £250 - - -	50
	<hr/>
	<u>£1,672</u>

The value of a tenement held as copyhold of inheritance will be the value of the fee simple less the cost of enfranchising. The latter item will, of course, vary with the circumstances, depending upon the possibility of an amicable settlement with the lord of the manor. Similarly, the value of the lord's interest in the copyholds of the manor is the sum of the various compensations payable to him should these tenements be enfranchised, less the expenses the lord would incur in connection with the enfranchisement.

## CHAPTER IX

### FIRE INSURANCE

As surveyors are frequently called upon to assess damage in connection with fire insurance claims, it is essential that they should be acquainted with the main principles upon which the law relating to insurance is based, and it is therefore proposed to briefly refer to these principles here.

The object of insurance is for the interested party to avert unforeseen loss and disaster, and such as cannot be provided for by ordinary means. The insurance companies are enabled by the large number of risks which they insure to average them, and to fix premiums which, in all human probability, will meet the losses and leave the companies a fair margin of profit.

**Principle of Indemnity.**—The first principle is that the policy is one of indemnity, and thus a man cannot make a profit out of the insurance. The consequences of this principle are stated in Porter's "Laws of Insurance" as follows:—

1. Only what has been actually lost need be made good, whether by payment or reinstatement, *i.e.*, the restoration of the thing damaged to its original condition, or construction of a new thing similar to it. No more than the amount of loss can be legally recovered, and if more is recovered the insurer can get the excess back again if he paid unawares. If he paid with notice, he is in the position of a man who has paid a wager.

2. If the thing insured is not totally destroyed, but remains wholly or in part in a deteriorated or damaged condition, the insured can only claim the value of the injury actually done, unless all that remains of what was insured be surrendered to the insurer. If the assured does not agree to treat the subject-matter of the insurance as wholly lost to him, he cannot demand to have it wholly made good to him. This rule, commonly

called the doctrine of abandonment, is chiefly applied in marine insurance, but is equally applicable to all insurances upon property. The only questions arising under it in land insurance are as to what degree of damage will entitle the assured to abandon the property to the insurer, to make what he can of it, and when the insurer can insist on the insured keeping the damaged property and receiving the amount of the damage. The solution of these questions depends on whether the identity of the property has been lost by the happening of the peril.

3. If the assured has any ways and means open to him to repair his loss otherwise than at his own expense or at the cost of his insurer, he must either cede such ways and means to the insurer, on being paid in full the amount of his loss, or he must exercise such ways and means for the benefit of the insurer. He may not take with both hands. Any surplus recovered by him in excess of his actual loss he holds in trust for an insurer who has paid him; and while, if the insurance does not fully compensate him, he is entitled to control any action brought against other persons primarily responsible for the loss, he cannot even in such a case exonerate such other persons from liability. An uninsured man can release a right of action arising out of his loss, but a man who is insured may not release such claim in such a way as to prejudice his insurers. Either such release will be ineffectual, and the insurer will be able to sue in the insured's name, the release notwithstanding, or the assured will be liable (as for a breach of trust) for granting such release contrary to his duty arising out of the contract of insurance.

The indemnity only covers direct loss by the fire. Loss of business or use of premises during the period of rebuilding is not covered. Such a loss can be specially insured against.

**Insurable Interest.**—In order to satisfy the provisions of the Gambling Act, 1774, it is necessary that the insured should have an insurable interest at the time of insurance and at the time the fire occurs.

A lessee or tenant has an insurable interest to the full value of the building. He could not, however, convert the money received from the company to his own use otherwise than in replacing the building. A bankrupt retains an insurable interest, and the receiver has a similar interest. A mortgagor has an

insurable interest to the full value of the property, as if it is destroyed by fire he is still liable personally to the mortgagee for the debt. The mortgagee also has an insurable interest to the extent of the debt and interest due. A person who has property on a hire-purchase agreement has an insurable interest.

A tenant has an insurable interest in the premises, and it is a common thing to insure for one year's rent. The company will only be liable, however, for the rent from the date of the fire till the earliest date the tenant can give up the premises or cease to pay rent.

Common carriers, brokers, pawnbrokers, etc., have an insurable interest in property entrusted to them ; but if they insure the goods to their full value and receive it, they will, after satisfying their own claims, be trustees of the balance for the owners of the goods.

Upon the signing of a contract for sale or assignment of real property both the unpaid vendor and the vendee have an insurable interest, for the vendee is bound by the contract to pay the purchase money, and on the other hand the vendor in case of fire before the purchase money was paid would otherwise have to rely entirely upon the solvency of the purchaser.

**Good Faith.**—The insurance contract is of such a nature that the utmost good faith is required on both sides, both before the policy is issued, during its continuance, and upon the occurrence of the risk.

Thus, if the insured fails to disclose some material fact which might have induced the insurer to refuse the risk or to charge a higher rate, the policy will be void. If, however, the omission was not fraudulent, the premiums will be repayable unless there has been an agreement to the contrary. Similarly, any circumstances affecting the risk which arise after the insurance begins must be communicated to the insurers.

A full description of the premises and the use made of them is necessary, and also the nature of neighbouring buildings. In the case of goods the fire insurance will only cover risk while the goods are in a specified building, unless the contract states otherwise.

Policies generally contain clauses voiding the assurance in case of assignment.

Should a fire occur on the premises or on neighbouring premises it is the duty of the insured to take all reasonable means to prevent loss as much as possible. In doing so, he will, of course, have a claim against the insurers for any expense to which he may be put.

**What the word "Fire" covers.**—In contracts of fire insurance, the word "fire" only includes actual ignition, and loss is not included which is due to excessive heat or explosion where there is no actual fire. Damage by explosion due to ordinary gas in domestic use is commonly included, however, in fire policies. It is not necessary that the premises insured should be burnt, but if damage ensues from smoke from another burning building, or from water used in putting out fire, such damage will be covered, and if insured goods are damaged in being removed to prevent their destruction, such damage is also recoverable.

**Duration of Policy.**—Most policies are for a definite period of time, and the assurance expires at midnight of the last day. The risk will start as soon as the premium is accepted or the policy handed over. The policy will cover several small fires if occurring during the period so long as the total sum is not exceeded. Each time a claim is paid the sum assured is diminished by that amount until the end of the period.

**Demand for Premium not necessary.**—The company need not give notice that premiums are due, and if the insured fails to pay within the days of grace the company will not be liable.

**What the Policy covers.**—An ordinary fire policy covers only the goods of the person insuring, or such property as he has an insurable interest in. It will not cover goods held on trust, or commission, or for storage, etc., unless this is specially provided for. As a rule, moreover, a policy on personal property will only cover valuable goods such as pictures, plate, jewellery, etc., to the extent stated in the policy, and these articles if of greater value must be specially insured at a much higher rate. Title deeds and other documents are never covered by a general policy.

**Insurance does not pass with Property.**—An insurance does not necessarily pass with the property, unless the property pass by will or operation of the law, but companies generally transfer the insurance upon notice being given. In such cases the policy should always be sent to the office to be endorsed.

**Average Clause.**—Most fire insurance policies are subject to average. The meaning of this will best be seen by an example. Suppose a house is insured for £1,000, whereas its proper value is £1,500, if damage to the extent of £500 is done by a fire, the insured will only be entitled to recover two-thirds of the loss of £500.

**Insurance with more than One Company.**—Where property is insured with more than one company, they will rank together for the loss, and between themselves are entitled to insist upon each other sharing the loss according to the sum each has at stake, but the total payment may not exceed the loss. Upon a proposal being made the company puts the question as to whether the property is insured in any other company, and it is sometimes a condition of the policy that the insurance is void if the property is insured with any other company without notice being given of the fact.

**Metropolitan Building Act.**—Section 83 of the old Metropolitan Building Act (14 Geo. III., c. 78), which applies to the whole of England and Wales, is of great importance to insurance companies, as well as to tenants and persons other than the insured who are interested in the building. It provides that “upon the request of any person or persons interested in or entitled unto any house or houses, or other buildings, which may thereafter be burnt down, demolished, or damaged by fire, or upon any grounds of suspicion that the owner or owners, occupier or occupiers, or other person or persons who shall have insured such houses, or other buildings, have been guilty of fraud, or of wilfully setting their house or houses or other buildings on fire, cause the insurance money to be laid out and expended, so far as the same will go, towards rebuilding, reinstating, or repairing such house or houses or other buildings so burnt down, demolished or damaged by fire, unless the party or parties claiming such insur-

ance money shall within sixty days next after his, her, or their claim is adjusted, give a sufficient security to the insurers that the insurance money shall be laid out and expended as aforesaid, or unless the said insurance money shall in that time be settled and disposed of to and amongst all the contending parties, to the satisfaction and approbation of the insurers."

**Mortgages.**—It will be seen that the above section gives no power for the interested party to require reinstatement where the money has been paid over by the company. Section 23 (3) of the Conveyancing Act, 1881, gives a mortgagee power to insist on insurance money being employed in reinstatement whether the same has been paid over or not, and by sub-section 4 the mortgagee may require all money received on an insurance to be applied in or towards discharge of the money due under his mortgage.

**Landlord not bound to Rebuild.**—A landlord is not bound to rebuild premises destroyed by fire, nor to apply insurance moneys to that purpose unless the tenant, as a person interested, acts under the powers of the Metropolitan Building Act to compel the company to lay out the money upon reinstatement. A tenant, notwithstanding that the building is destroyed, must go on paying his rent until such time as he can legally determine the tenancy.

**Leases.**—A lessee covenanting to "keep and leave the premises in proper repair" is bound to rebuild in the event of fire. Leases generally contain provisions, however, for the lessee to insure in an approved office and to produce receipts for premiums for the inspection of the lessor. In an agreement for a lease with the "usual" covenants a covenant for the lessee to insure would be implied. Leases commonly include instead of a covenant for the lessee to insure a provision for the lessor to insure and for the lessee to pay the premiums as part of the rent. In such cases the lessee should insist on a covenant for any insurance moneys to be laid out on repairs or rebuilding.

**Notice of Loss to be given to the Company.**—Insurance companies invariably insert in their policies a condition requiring



the insured to give notice in writing of loss within a specified time, generally fifteen days. The notice must include as good an estimate as is possible of the extent of the loss. It will readily be seen that this condition is quite reasonable and very necessary for the protection of the company, as otherwise the checking and valuation of the loss may be rendered impossible.

**The Claim.**—Accounts, vouchers, and other proofs of value must be supplied. In the case of a building, a certificate of value by a surveyor or builder may be required. The value for the purposes of insurance is the value at the date of the loss.

An over-valuation of the loss will not void the policy if it is not fraudulent, but whether it is so or not is a question for the jury to decide upon action being brought for the payment; and a reckless over-statement of loss may very reasonably be construed by a jury as fraudulent. Policies usually include the clause, "If the claim be in any respect fraudulent, or if any statement or statutory declaration made in support thereof be false, or if the fire was caused by or through the wilful act, procurement or connivance of the insured or any claimant, all benefit under this policy is forfeited." This condition would be implied at common law even if it were not inserted in the contract, the term "false" meaning knowingly false.

The value to be taken into account in the case of total loss is not the cost of rebuilding, but the value of the building in the condition in which it was at the time of the fire. This may be arrived at by taking the cost of rebuilding and allowing a deduction for the condition and age of the old structure prior to the fire.

**Reinstatement.**—Insurance companies invariably reserve to themselves the right to reinstate or replace property instead of paying over the amount of the loss. Where the property is insured in more than one office the various companies may co-operate in the reinstatement. The company have the option of paying a sum of money to cover the loss or of repairing or rebuilding, but they must elect one method or the other. Thus they cannot agree to reinstate, and upon finding out that the cost is greater than they anticipated, tender a sum of money. Similarly it would be no defence in an action for damages for defective rebuilding for the

company to show that the reinstatement had cost more than the sum the plaintiff was willing to take to cover the loss. The company must, of course, rebuild within a reasonable time.

**Arbitration.**—Fire policies generally contain an arbitration clause, and the policy is a submission under the Arbitration Act, 1889. It will be remembered that sec. 4 of the Act gives any party to an action power before taking any other proceedings in the action to apply to the Court to stay the proceedings till the matter has been submitted to arbitration (see p. 76 *ante*).

## CHAPTER X

### COMPENSATION UNDER LICENSING (CONSOLIDATION) ACT, 1910

**Scope of the Act.**—The Licensing Act, 1910, is of great importance to valuers, as it reaffirms the principle of the extinction of on-licences by compensation. Prior to the Licensing Act, 1904, now repealed, licences were granted from year to year, and the licensing justices assembled at the brewster sessions, where an objection was made, had an absolute discretion to refuse to renew licences other than *ante*-1869 beer-house licences, so long as they exercised their discretion judicially (*Sharp v. Wakefield*, 1891, 55 J. P. 197). The refusal to renew was subject to appeal to quarter sessions on both law and facts. By the Act of 1910, however, the licensing justices may only refuse to renew an existing on-licence on the following grounds:—

- (1) That the licensed premises have been ill-conducted.
- (2) That they are structurally deficient or structurally unsuitable.
- (3) On grounds connected with the character or fitness of the proposed holder of the licence.
- (4) That the renewal would be void.

And wherever the licensing justices refuse the renewal of an existing on-licence, they must specify in writing to the applicant the grounds of their refusal. The right of appeal to quarter sessions remains in these cases.

**Non-renewal of On-licences.**—If the licensing justices upon the consideration of applications for the renewal of existing on-licences consider that the renewal of any particular licence requires consideration on any other grounds than those stated above, they must refer the matter to quarter sessions with their report thereon. Quarter sessions consider all such reports, and

after hearing all persons interested in the premises, and, unless they consider it unnecessary, also any other persons appearing to be interested in the question of the renewal of the licence, they may refuse the renewal of the licence, subject to the payment of compensation under the Act. The term "on-licences" in this Act includes all licences for the sale of intoxicating liquor (other than wine alone or sweets alone) for consumption on the premises, and "existing" means existing at the time the 1904 Act came into force.

**Ante-1869 Beer-houses.**—Before dealing with the compensation clauses, it will be well to mention the other provisions of the Act. *Ante*-1869 beer-houses are brought under the control of the justices. Prior to the Act, the licences attached to these houses could only be taken away on the grounds that—

- (1) The applicant has failed to produce satisfactory evidence of good character.
- (2) The house or shop in respect of which a licence is sought, or any adjacent house or shop owned or occupied by the person applying for a licence, is of a disorderly character, or frequented by thieves, prostitutes, or persons of bad character.
- (3) That the applicant having previously held a licence for the sale of wine, spirits, beer or cider, the same has been forfeited for his misconduct, or that he has through misconduct been at any time previously adjudged disqualified from receiving any such licence, or from selling any of the said articles.
- (4) That the applicant, or the house in respect of which he applies, is not duly qualified as by law is required.

**New On-Licences.**—Prior to the Act, licences, free of any legal conditions, were granted by the justices of the licensing division and confirmed by a committee of quarter sessions called the county licensing committee, and there was no appeal against the decision of this committee. The Act of 1910 leaves the authorities practically as before, except that the committee of quarter sessions is constituted as provided in the Act. It is now provided, however (sec. 14)—

- (1) The justices, on the grant of a new on-licence, may attach to the grant of the licence such conditions, both as to the pay-

ments to be made and the tenure of the licence, and as to any other matters, as they think in the interests of the public ; subject as follows :—

- (a) Such conditions shall in any case be attached as, having regard to proper provision for suitable premises and good management, the justices think best adapted for securing to the public any monopoly value, which is represented by the difference between the value which the premises will bear, in the opinion of the justices, when licensed, and the value of the same premises if they were not licensed : Provided that in estimating the value as licensed premises of hotels or other premises where the profits are not wholly derived from the sale of intoxicating liquor, no increased value arising from profits not so derived shall be taken into consideration.
  - (b) The amount of any payments imposed under conditions attached in pursuance of this section shall not exceed the amount thus required to secure the monopoly value.
- (2) The justices may, if they think fit, instead of granting a new on-licence, grant the licence for a term not exceeding seven years ; and where a licence is so granted for a term—
- (a) Any application for a re-grant of the licence on the expiration of the term shall be treated as an application for the grant of a new licence, not as an application for the renewal of a licence, and during the continuance of the term the licence shall not require renewal : and
  - (b) Any transfer of the licence shall, subject to any conditions attached thereto on the grant, have effect for the remainder of the term of the licence, and may be granted at a general annual licensing meeting as well as at special sessions, and any reference to special sessions in any enactment relating to transfer or protection orders shall include a reference to the annual licensing meeting.
- (3) The amount of any payments made in pursuance of any conditions under this section shall be collected and dealt with

in the same manner as the duties on local taxation licences within the meaning of sec. 60 of the Local Government Act, 1888.

[These sums were paid into the Local Taxation Account and thence paid over to the County Councils in the areas where collected, but under the provisions of the Finance Act, 1908, they are now collected by the local authorities direct.]

(4) A licence granted for a term under this section may (without prejudice to any other provisions as to forfeiture) be forfeited, if any condition imposed under this section is not complied with, by order of a Court of summary jurisdiction, made on complaint, or, if the holder of the licence is convicted of any offence committed by him as such, by the Court by whom he is convicted.

(5) On a confirmation of a new on-licence, the confirming authority may, with the consent of the justices authorised to grant the licence, vary any conditions attached to the licence under the provisions of this section.

It will be seen that the object of this section is to secure to the public the monopoly value, and also to prevent any interest growing up which shall prevent the justices from taking the licence away at any time if they deem it necessary in the public interest, or from varying any of the conditions under which the licence is allowed to be retained.

The question of monopoly value is dealt with later with the question of compensation. The question of the amount of the monopoly value, however, in a new house is a very difficult one, as it cannot be estimated with any certainty what the value is until it can be ascertained what trade the house will do. Most of the new licences, therefore, are granted in respect of a sum which is subject to revision after one or two years.

Full particulars of the amount paid and conditions imposed in respect of new on-licences granted in the County of London since the Act came into force are given in the return of Licensed Premises, issued by the London County Council. In the years 1905 to 1911, twenty-four new on-licences (nineteen full, four beer and wine, and one wine) were granted in London. This includes one new public-house only, the others, apart from the licence for the Franco-British Exhibition, being in respect of restaurant or hotel purposes. The sums paid for monopoly value have been considerable, the largest included in the above-mentioned return

being the Franco-British Exhibition, £5,000, and the Waldorf Hotel, £1,000 per annum.

**Off-Licences.**—The position with reference to off-licences is not affected by the Bill. They do not contribute to the compensation fund and do not share in its benefits.

**Compensation.**—As stated on p. 133, the justices cannot refuse to renew an existing on-licence except for the reasons there stated. Where they consider that for other reasons renewal should be refused, they report to quarter sessions, and they may annul the licence upon paying compensation.

**Compensation Fund.**—The fund out of which the compensation is paid is raised by means of a charge upon all existing on-licences, in proportion to and not exceeding the sums mentioned in the first schedule, which is as follows:—

*Scale of Maximum Charges.*

Annual value of premises to be taken as for the purpose of the publican's licence duty.					Maximum Rate of Charge.
	£15	-	-	-	£1
£15 and under	20	-	-	-	2
20	25	-	-	-	3
25	30	-	-	-	4
30	40	-	-	-	6
40	50	-	-	-	10
50	100	-	-	-	15
100	200	-	-	-	20
200	300	-	-	-	30
300	400	-	-	-	40
400	500	-	-	-	50
500	600	-	-	-	60
600	700	-	-	-	70
700	800	-	-	-	80
800	900	-	-	-	90
900 and over,		-	-	-	100

In the case of inns and hotels mainly used for the reception of guests or travellers, and where no part of the premises of greater value than £25 is set aside for ordinary public-house purposes, one-third is to be charged. Where the premises are used only as

public gardens, places of entertainment, restaurants, or eating-houses, or for other purposes to which the holding of a licence is merely auxiliary, the justices may reduce the charge, but not below one-third.

**Deductions from Rent.**—Such deductions from rent as are set out in the second schedule to the Act may (notwithstanding any contract) be made by the licence-holder who pays compensation charge. The lessor may deduct a proportion from ground rent, etc., in the same way. The scale of deductions is as follows :—

*Scale of Deductions.*

A person whose unexpired term does not exceed—

1 year may deduct a sum equal to 100 per cent. of the charge.			
2 years	„	„	88 „ „
3 „	„	„	82 „ „
4 „	„	„	76 „ „
5 „	„	„	70 „ „
6 „	„	„	65 „ „
7 „	„	„	60 „ „
8 „	„	„	55 „ „
9 „	„	„	50 „ „
10 „	„	„	45 „ „
11 „	„	„	41 „ „
12 „	„	„	37 „ „
13 „	„	„	33 „ „
14 „	„	„	29 „ „
15 „	„	„	25 „ „
16 „	„	„	23 „ „
17 „	„	„	21 „ „
18 „	„	„	19 „ „
19 „	„	„	17 „ „
20 „	„	„	15 „ „
21 „	„	„	14 „ „
22 „	„	„	13 „ „
23 „	„	„	12 „ „
24 „	„	„	11 „ „
25 „	„	„	10 „ „



A person whose unexpired term exceeds—

25 but does not exceed 30 years may deduct a sum equal to  
7 per cent. of the charge.

30	”	35	”	6	”	”
35	”	40	”	5	”	”
40	”	45	”	4	”	”
45	”	50	”	3	”	”
50	”	55	”	2	”	”
55	”	60	”	1	”	”

But the amount deducted shall in no case exceed half the rent.

**Payment of Compensation.**—The provisions as to payment of compensation or non-renewal of licences are contained in section 20 of the Act, and are as follows:—

- (1) Where quarter sessions refuse the renewal of an existing on-licence under this Act, a sum equal to the difference between the value of the licensed premises (calculated as if the licence were subject to the same conditions of renewal as were applicable immediately before the passing of the Licensing Act, 1904, and including in that value the amount of any depreciation of trade fixtures arising by reason of the refusal to renew the licence) and the value which those premises would bear if they were not licensed premises, shall be paid as compensation to the persons interested in the licensed premises.
- (2) The amount to be so paid shall, if an amount is agreed upon by the persons appearing to quarter sessions to be interested in the licensed premises, and is approved by quarter sessions, be that amount, and in default of such agreement and approval shall be determined by the Commissioners of Inland Revenue in the same manner and subject to the like appeal to the High Court as on the valuation of an estate for the purpose of estate duty, and in any event the amount shall be divided amongst the persons interested in the licensed premises (including the holder of the licence) in such shares as may be determined by quarter sessions: Provided that in the case of the licence holder, regard shall be had, not only to his legal interest in

the premises or trade fixtures, but also to his conduct and to the length of time during which he has been the holder of the licence, and the holder of a licence, if a tenant, shall (notwithstanding any agreement to the contrary) in no case receive a less amount than he would be entitled to as tenant from year to year, of the licensed premises.

- (3) If on the division of the amount to be paid as compensation any question arises which quarter sessions consider can be more conveniently determined by the County Court, they may refer that question to the County Court in accordance with rules of court to be made for the purpose.

It will be seen that quarter sessions have no power to settle the amount of compensation, but they may confirm a figure agreed upon by the parties interested in the house. The usual practice is for the Court to appoint a valuer with whom the valuers for the interested parties confer. The valuer reports his figure to sessions, who generally adopt his valuation. If this is acceptable to the parties interested, sessions then apportion the sum among the parties or refer it to the County Court to do so. There is no appeal against this apportionment. If the amount of compensation is not agreed, the matter is referred to the Inland Revenue Commissioners, and the parties have the right of appeal to the High Court.

It will be seen that the valuation proceeds on the lines of compensation for the loss of the premises to all persons concerned, and assumes that the tenant is free to carry on his business elsewhere. No account is taken, as in cases of compulsory purchase under the Lands Clauses Acts, of the various interests of the parties, but the compensation is awarded in a lump sum, which it is the duty of quarter sessions to divide among the various parties interested in the licence.

In valuing the compensation to be paid it is first necessary to arrive at the value of the premises with the licence attached, estimating the value as if the Act had not been passed. This last proviso, in effect, means that the value shall be as if the compulsory insurance set up by the machinery of the compensation clauses did not exist. It must be admitted that the Act makes the terms of the licence more certain, and that prior to the Act

a judicious licence holder would have allowed something for voluntary insurance, so that the proviso hardly affects the value. In the case of *ante*-1869 beer-houses, however, the justices were bound to renew the licence unless there was objection to the character of the premises, or to that of the licence-holder, and even in the latter case the owner had power to get a transfer. The basis of valuation, therefore, is somewhat higher in the case of these houses. Secondly, the loss on fixtures occasioned by the different use of the premises has to be estimated. This will in most cases be practically the full value of these fixtures. Thirdly, it is necessary to calculate the value of the premises without the licence. This will generally be a fairly easy matter to the valuer. He must, of course, allow something for the style of building peculiar to public-houses, where the realising of the full value for other purposes necessitates expenditure on alterations of the front and other works of adaptation.

**Statistics of Licences removed in London.**—The following summary of licences removed by compensation in London during the years 1905 to 1910 is extracted from the London County Council return of licensed premises :—

	Public-houses.	Beer-houses.	Total.
Number of houses - - - -	189	294	483
Rateable value of premises as licensed - - - -	£20,421	£14,395	£34,816
Average per house - - - -	108	49	72
Compensation awarded—			
To tenants - - - -	£57,552	£59,011	£116,563
To brewers - - - -	292,828	334,057	626,885
To others - - - -	203,754	172,390	376,144
Total - - - -	£534,134	£565,458	£1,119,592
Average per licence - - - -	£2,932	£1,923	£2,318
Average number of years' purchase of rateable value - - - -	27	39½	32

The rateable value includes not only the value of the licence, but also the value of the land and buildings. As the removal of the licence by payment out of the compensation fund leaves the

land and building in the owner's hands, the payment for compensation is only in respect of loss of licence. The above figures, therefore, indicate very liberal compensation, or, on the other hand, great under-assessment of these premises for rating purposes.

The following official memorandum explains fully the principles upon which the Inland Revenue Commissioners proceeded in assessing the compensation in cases submitted to them prior to the Kennedy judgment (see p. 149):—

#### LICENSING ACT, 1904

Memorandum explanatory of the principles upon which the Commissioners of Inland Revenue have proceeded in determining the amounts of compensation payable on non-renewal of licences under the Licensing Act, 1904.

1. *Preliminary.*—In the first place the Commissioners have considered that their functions under the Act are not those of a formal Court of Arbitration. Arbitration implies the intervention of a third party, when two parties to a dispute are unable to agree; and it may no doubt be said that, when the persons interested in licensed premises have agreed on a sum that they are willing to accept as compensation, but quarter sessions have failed to approve of such sum, the reference to the Commissioners has the appearance, and possibly some of the elements, of a reference to an arbitrator. But the Act does not impose upon “parties interested” on the one hand, or upon the compensation authority on the other, any obligation even to attempt to come to an understanding. It is perfectly open to the “parties interested” to leave the question of compensation to be determined from the first by the Commissioners, and the terms of the Act do not suggest that quarter sessions are called upon, unless they so choose, to do anything in the way of negotiation where an “agreed” sum does not commend itself to them.

2. In these circumstances the Commissioners have taken the view that their position is not so much that of an arbitrator as that of an alternative authority to whom the determination of compensation might be referred, sometimes in the first instance, at other times at a second stage of the procedure.

3. For the above and other reasons, the Commissioners have further held that it was not the intention of the Act that their

procedure in determining compensation should be of a formal or elaborate character, such as would be suitable to a judicial tribunal. The Act directs them to proceed "in the same manner . . . as on the valuation of an estate for the purpose of estate duty." That manner has been fully ascertained and determined by prescriptive practice extending over many years, and the Commissioners have adhered generally to methods sanctioned by the practice.

4. Accordingly they have proceeded by the recognised departmental methods of correspondence and consultation, and have not resorted to the taking of oral evidence from the several persons or bodies interested, or to the advice of professional valuers. Under sec. 7 (8) of the Finance Act, 1894, it would be open to them to make use of these or other methods in case of need. But such need has rarely been found to arise in making valuations for Estate Duty, and as far as the Commissioners can at present judge, there is no reason to suppose that it will arise more frequently in connection with valuations under the Licensing Act. And to resort to such methods unnecessarily would, in their opinion, go far to defeat the purpose which, from their reading of the Act, they believe that Parliament had in view in interposing the Commissioners as an authority intermediate between claimants and compensation authorities on the one hand, and the High Court on the other. That purpose they conceive to have been to provide parties interested with an opportunity for an expeditious and inexpensive settlement of amounts of compensation, by placing at their disposal the services of a public department with experience in the valuation of property, and so to confine the labour and expense of formal legal proceedings to those cases in which nothing short of a judicial decision could be found to satisfy the parties.

5. *Basis of Compensation.*—The computation of the sum to be paid as compensation in any case requires the determination of three factors, viz. :—

- (a) The value of the licensed premises ;
- (b) The depreciation in value of trade fixtures ;
- (c) The value of the premises without licence.

Once these have been determined, the computation is represented by the simple equation—

$$\text{Compensation} = (a) + (b) - (c).$$

With the distribution among the persons interested of the sum thus ascertained the Commissioners have no concern.

6. *Principles and practice of valuation.*—The principles and practice of valuation may be considered with respect to each of the three factors; but it will be convenient to take them in the reverse order of their importance and difficulty rather than in the order given above.

7. (b) *Depreciation of trade fixtures.*—This head presents no difficulty in theory and very little in practice. It is only necessary to observe that the subject-matter of depreciation is limited to trade fixtures, and does not include fixtures other than trade fixtures, or trade utensils that are not fixtures.

For the purpose of determining the amount of depreciation the Commissioners have checked the sums claimed by licencees by the advice of their collectors and supervisors of excise.

8. (c) *Value of premises without licence.*—Here there is no great difficulty in theory; but obviously a good deal in practice.

According to the definition in sec. 7 (5) of the Finance Act, 1894, "the principal value of any property shall be estimated to be the price which, in the opinion of the Commissioners, such property would fetch if sold in the open market." Now the price which any income-producing property will fetch in the open market, save in quite exceptional circumstances, bears an intimate correspondence with the income which it is capable of producing. The income which house property is capable of producing is represented by the rack rent at which it can be let, and the price which a purchaser will pay for the property is, therefore, governed in the first instance by consideration of such rent. Other considerations come in to determine how many years' purchase of the rack rent he will give, or, in other words, what annual return on his capital he will demand—considerations relating to the condition and situation of the property, on which must depend the prospects in regard to gross and net incomes respectively, and the relation between them.

9. In matters of this kind the Commissioners have on their staff officers of experience, not only in the Estate Duty Office, but also in their Tax Surveying Branch. These latter have further the advantage of local experience, as they are distributed over the whole country. Accordingly, the Commissioners have employed surveyors of taxes in each district, to make estimates of the

probable annual value of premises when deprived of licence, and of the probable number of years' purchase of such annual value that the premises would fetch, allowance being made for cost of alterations necessary to fit the premises for earning the annual value as estimated.

In a considerable number of cases, and wherever they thought it desirable, the Commissioners have employed inspectors, officers of the widest experience, to check the estimates of surveyors, and to the materials thus obtained they have finally applied their own judgment, aided by the advice of the expert officers of the Estate Duty Branch.

10. It may be mentioned that in the great majority of cases with which the Commissioners have had to deal so far, the premises from which licences have been withdrawn have been property of very poor character, and the number of years' purchase of the annual value has, therefore, been taken at a low figure. In a few cases sales of the premises without licence have been effected before determination of the compensation, and where this has happened the Commissioners have taken the price actually realised as the remaining value of the premises.

11. (a) *Value of licensed premises.*—This factor is the one of which the determination presents, in the greatest degree, features of doubt and difficulty. In the first place there is the question of the exact meaning of the words "the value of the licensed premises." The Commissioners have held that these words must be interpreted in the manner prescribed by sec. 7 (5) of the Finance Act, 1894, and that they mean no more than the price which, in the opinion of the Commissioners, the owner of the freehold of the premises might expect to obtain for them, *quâ* premises enjoying the privilege of a licence, if sold in the open market. The Commissioners consequently are of opinion that, for the purpose of their determination of the values of licensed premises, any claim by the occupier of the premises, whether he be owner or tenant, for compensation on account of loss of trade cannot be admitted into the computation; and, further, that the additional 10 per cent. on the value of the premises, which is usually awarded in the case of inquiries under the Lands Clauses Consolidation Act, must also be excluded. Still less can the Commissioners take into consideration any claim on the part of a brewing owner of a licensed house in

respect of loss of brewers' profits on beer supplied by him to the house.

12. In ascertaining the value of licensed premises, as thus understood, the same general principles apply as in the case of unlicensed premises (see paragraph 8). But these general principles are subject to certain modifying considerations by reason of the monopoly character of the business conducted under cover of the licence. This tends to enhance the rent which can be exacted for licensed premises. As Lord Blackburn laid it down in the case, *Mersey Docks v. Liverpool*: "If the hereditaments are such as to afford peculiar facilities for carrying on any kind of business, that facility does, beyond all question, enhance the value of the occupation." These words, though used at the time in a different connection, seem exactly to describe the case of a public-house, and accordingly the Commissioners have kept steadily in view the fact that the possession of a licence must, as a rule, substantially increase the rent those premises can command. For, in the case of licensed premises, a true rack rent as a rule comprises not merely the normal rent appropriate to the character of the hereditament, but also an addition to such rent attributable to the existence of the licence. They have, therefore, in each case carefully checked the valuation of premises, for purposes of income tax under Schedule A, with a view to satisfying themselves, with reference to business done and other evidence before them, whether that valuation corresponded, as it aims at doing, with the rent that, on entering into occupation, a free tenant might be expected to covenant to pay, in the circumstances of the present time, and subject to the conditions of renewal of licence that were applicable immediately before the passing of the Act. Where modifications of the Schedule A valuation seemed to be called for, the Commissioners have made the necessary adjustments; otherwise they have taken that valuation as representing the full rack rent that an owner of the premises could obtain from a free tenant.

13. In capitalising the annual value thus obtained, the Commissioners have had regard to two considerations peculiar to licensed premises; the one, that the circumstances of the privileged trade carried on in them render non-existent any risk of not securing a continuity of occupation; the other, that among possible purchasers in the open market there is to be found in



the brewers of beer a class of persons who, for reasons germane to their business as brewers, have inducements to pay exceptional prices for licensed premises. Both these considerations tend to raise the price that licensed premises may fetch in the open market, and justify a capitalisation of the annual value on a basis that would give a smaller return on the capital invested than a purchaser would require to satisfy him in the case of ordinary property.

14. Of the two considerations referred to, the second is the more important. But, whatever the weight to be attached to it, it is now insignificant compared to what it would have been ten, or even five, years ago. It is a matter of common knowledge that the prices paid by brewers for licensed houses during some years towards the close of the last century were altogether excessive. As an illustration, it will be sufficient to quote a circular recently issued by Messrs Watney, Combe, Reid & Co. to their shareholders (see the *Times* of 23rd November 1905) :—

“There has been,” say the directors, “during the last five or six years an unprecedented decrease in the consumption of beer, and in the business (both sales and profits) done in licensed public-houses, with a consequent and corresponding depreciation in the value of such properties. Many of these properties were bought at a period of high prices, and loans in connection therewith were made to our consumers, a large number of whom are now unable to continue to pay agreed instalments of principal and interest, with the result that these loans must be treated as partially irrecoverable.”

The circular then proceeds to state that the result of an exhaustive valuation of the capital assets of the company, made for the purpose of separating the amount of depreciation due to ordinary wear and tear from that required to replace lost capital, on a basis that may reasonably be relied on for future realisation, shows an ascertained loss on freeholds and leaseholds of £370,000, and on loans to customers (*i.e.*, the licencees of tied houses) of £1,700,000, or a total loss of capital tangible assets of £2,070,000.

In the face of these facts and figures, the Commissioners have felt that they must pay very little attention to prices actually given in the past by brewers for licensed premises, but must regard

them as evidence of an accidental value realised for the property by the holder from whom it was acquired, rather than as a guide to the price which the present holder might hope to obtain in the open market.

15. Nevertheless, even now, the competition of brewers for licensed houses is an element of consideration in estimating their value, and the Commissioners have felt it incumbent upon them to discover some principle by which this element should be measured. They have considered that one may be found in the judgment of Mr Justice Channell in the case of *Bradford-on-Avon Assessment Committee v. White* (Q. B. 2, 1898) in the following passage, which, although in the particular case it had reference to annual value, yet seems to the Commissioners to be no less appropriate to a question of capital value. "I do not think," said his lordship, "that it is right to say that the competition of brewers should be wholly excluded from consideration, but the special prices which they may give, owing to personal considerations, and not on account of the value of the premises, should be excluded, except so far as the possibility of such special prices being obtained raises the market value generally."

The Commissioners venture to think that these words define with great clearness and accuracy the measure of influence which the possible presence in the market of exceptional purchasers should exercise on the mind of a person endeavouring to make a forecast of the price that a particular piece of property might fetch ; and they have, therefore, adapted them as embodying the general principle on which they should themselves act in appraising the effect on the price of licensed houses of the competition of brewers for them.

16. The result of the application of the principles enunciated in the last two paragraphs has been that the Commissioners have, as a rule, capitalised the annual value of licensed premises on a 4 per cent. basis, or at 25 years' purchase ; and that they have only exceeded this in cases where there was a distinct prospect of improved annual value, and only fallen below it where there was evidence to suggest that the present annual value could not be maintained in the future.

(Sd.) H. W. PRIMROSE,

Chairman of the Board of Inland Revenue.

6th December 1905.

The Commissioners in their report for the year 1905-6 state that "This method of computing the compensation to be paid on non-renewal of licences, however, failed to commend itself to many of the parties interested, and least of all to the brewing owners of public-houses. As already stated, numerous appeals were entered against our awards; and eventually it was agreed with representatives of the brewing trade that of these cases two should be selected for hearing, more or less as test cases, and that pending a judicial decision on them the remainder of the appeals should stand over. Owing to various causes considerable delay occurred in obtaining such a decision, and it was not until 24th July 1906 that judgment was delivered on the two appeals. . . . *It will be seen that the principles upon which we have hitherto proceeded are not confirmed by the findings of Mr Justice Kennedy:* and we shall, therefore, be under the necessity of revising our method of procedure, so as to bring it into conformity with the principles which he has enunciated. This will require careful consideration.

"In the meantime we are inviting the attention of compensation authorities to the judgment, and are pointing out to them that, for the purpose of applying the principles laid down in it, they, with their local knowledge and with their facilities for ascertaining the facts on which compensation is to be based, are in a position of advantage as compared with ourselves. In these circumstances we hope that it will not be found necessary to refer to us more than a very small proportion of the cases in which compensation has to be determined."

**Kennedy Judgment.**—These cases are of much importance as they now form the basis of computation by justices and the Board. Mr Justice Kennedy gave a written judgment, which was as follows:—

"ROYAL COURTS OF JUSTICE,  
Tuesday, 24th July 1906.

"These two compensation cases, as I was informed by counsel at the hearing, have been selected for the consideration of the High Court of Justice, in order that certain questions of principle may receive a judicial determination.

"In regard to these questions there appears to be no real distinction between the two cases. The licence in the case of

the 'Hand and Spear,' belonging to Ashby Staines Brewery Company, Limited, and situate in Woking Old Village, is of the kind commonly described as a *pre-1869* beer-house licence. The licence in the case of the 'Crown' is not. The 'Crown' is a house in Cobham belonging to Ashby's Cobham Brewery Company, Limited, and is fully licensed for the sale of all intoxicating liquors. But the differences between the two houses in regard to the nature of the licence, locality, or trade, and structural condition, though they may affect the computation of the amount due for compensation, do not affect the application of the general principles which govern the computation in both cases alike.

"It is therefore best, in my opinion, to deal in the first instance with the points of principle common to the two cases which formed the subject of argument before me. The material statutory provisions are to be found in the Licensing Act, 1904, sec. 2, and the Finance Act, 1894, sec. 7. The conjoint effect of these sections (I omit all that relates merely to procedure) as to the calculation of the amount of compensation is: (1) That a sum equal to the difference between the value of the licensed premises and the value which those premises would bear if they were not licensed premises shall be paid as compensation to the persons interested in the licensed premises. (2) That the value of the licensed premises shall be calculated as if the licence were subject to the same conditions as were applicable immediately before the passing of the Licensing Act of 1904. (3) That in that value shall be included the amount of any depreciation of trade fixtures arising by reason of the refusal to renew the licence. (4) That the value of the property, that is to say (*a*) the premises as licensed, and (*b*) the premises without the licence, shall be the price which such property would fetch if sold in open market.

"The result of the legislation in my judgment, shortly, is that the tribunal in the two cases with which I am now dealing—the High Court of Justice, on appeal from the Commissioners of Inland Revenue—has to assess the amount of compensation by finding the price of the licensed premises in the open market, adding to that the depreciation, if any, of the trade fixtures, and deducting from this the price which the premises would fetch in the open market if unlicensed. The

division between the persons interested in the licensed premises of the amount of the compensation when so assessed devolves, under the Licensing Act, 1904, sec. 2, sub-secs. 2 and 3, upon quarter sessions, with a power, if they think fit, to refer that question to the County Court in accordance with rules of court to be made for that purpose.

"Three questions of general principle which affect both the cases before me have been discussed by counsel at the hearing. The first of these is the meaning of the words of the Licensing Act, 1904, sec. 2: (1) 'Including in that value the amount of any depreciation of trade fixtures arising by reason of the refusal to renew the licence.' The Solicitor-General has contended that the proper interpretation of those words is that you are not on account of such depreciation to make any addition to the market price of the licensed premises.

"I agree with him in thinking that the language is not so clear as it might be, but upon the whole I prefer, as I have already indicated, the opposite view. It appears to me that the more natural and, if I may presume to say so, the more equitable construction of the direction to 'include' is that the amount of depreciation of the trade fixtures by reason of the non-renewal is not to be left out of the computation of value. If the legislature intended the opposite, it would have been so easy to say that the depreciation of trade fixtures was not to be included in the money computation, that I cannot but think that it would have done so.

"The two further and much more important questions of principle discussed before me were first, the method by which the market value of the licensed premises ought to be arrived at; and secondly, the question whether in the valuation should be included any assessment of the tenant's interest in the premises as distinct from that of the landlord.

"In regard to the first of these two points, it appears to me that there is really little room for controversy; indeed, ultimately the counsel for the petitioners and the counsel for the Commissioners appeared to be in substantial accord. What is the object of our inquiry? I cannot do better than adopt the language of the interesting memorandum of Sir Henry Primrose, the chairman of the Board of Inland Revenue, which was read to me by Mr Cripps in his argument. It is to find the price which the owner of the freehold of the premises might expect to obtain for them,

*quâ* premises enjoying the privilege of a licence, if sold in the open market. In the case of an owner who is not a brewer and lets the licensed premises to a tenant—whether such tenant be the actual occupier of the premises, or, as in the case of the ‘White Lion’ inn, referred to by the witness Lee, a brewery company who sub-let—you may be able fairly to find the market value by a capitalisation of the annual value based upon a true rack rent. Such an owner presumably gets, not merely the normal rent appropriate to the character of the hereditament, but also an addition to such rent attributable to the existence of the licence.

“But the case of licensed premises so let at a rack rent by an owner who is not himself in the trade is, I should suppose, not the most common case which has to be dealt with under the statutory enactments in the event of non-renewal of the licence which we are now considering. The owner of the premises may be himself the occupier. Then there is no rent upon which an annual value can be based. Or again, and this probably is the commonest case, the circumstances may be the circumstances with which I have to deal in reference to the ‘Crown’ and the ‘Hand and Spear,’ viz., the ownership of a brewer or a brewery company, and the tenancy of a lessee who occupies the licensed premises as a ‘tied’ house. In such a case a rent is paid to the owner, but it is nothing like a rack rent; you cannot justly base upon the rent a calculation of value to the owner. I was referred, in the course of the argument upon another point, to the case of *Page v. Ratcliffe* (75 L. T., N. S. 371). There, in the course of his judgment (at p. 373), Mr Justice Stirling observes: ‘The value to the brewer is, first, the rent, and secondly, the profit derived from the sale of the beer. In estimating the amount which would be reached at an auction you take both into consideration, and assess them, and put them together. The fair value, therefore, includes the value of the profit derived from the sale of beer to the house.’

“Unquestionably the most likely purchasers of the licensed premises, of which it is the duty of this Court to find the price in the open market, the bidders upon the degree of whose competition that price will ordinarily depend, are the brewers—‘the class of persons’ (to quote from the memorandum) ‘who, for reasons germane to their business as brewers, have inducements to pay

exceptional prices for licensed premises.' The judgment of all possible purchasers, but especially of this most important class, as to the price which it will be worth while to pay for the licensed premises, will mainly depend upon the amount of profit which a brewer owner might fairly expect to make by the supply of liquors to its tenant for consumption by his customers. It appears to me that it cannot be right for the tribunal or authority which has to ascertain the market value of licensed premises to refuse to admit evidence of profit which the possible purchaser would certainly treat as a most material factor in the formation of a right judgment as to the value of the licensed premises. What is that evidence? Evidence of the amount and quality of the liquors supplied to the house over such a period of time as will serve to exclude the risk of erroneous inference due to the influence of purely temporary or accidental circumstances. Plainly this is the most important fact for the possible purchaser to know, although he will, of course, as a matter of common prudence, also take into account the position and structural condition of the premises themselves, and the past history, the present state, and the probable future of the surrounding district. Having got the facts as to the amount and quality of the liquors supplied to the tenant, the possible purchaser will be able to estimate the profit which may easily be attributed to the premises, apart from rent, with more or less correctness, according to his more or less knowledge of that brewing business. This Court, having no knowledge of the business, must be guided by the evidence of experts. But I entirely agree with the learned Attorney-General and Solicitor-General that such evidence as to profits must not include facts of a personal or special character. The evidence as to profit must be evidence of the profit which would be made ordinarily and normally—if I may be allowed the use of the expression—in the brewing trade, not of profit arising from purely personal or other peculiar advantages, such as the possession of secret processes of brewing or of special plant, or the proximity of the brewery to the licensed premises. In my opinion, the learned Attorney-General was quite justified in arguing that any evidence as to the profit which may be made by the selling company upon this trade cannot be material, because that depends on questions of management, and the cost of brewing beer by them; in other words, it depends upon considerations which are personal to the owners,

and might not obtain, and would not be expected to obtain, in the event of the acquisition of the property by a purchaser who might conduct his business on entirely different principles. I do not assent to the further proposition, which he appeared to me to suggest in a part of his argument which immediately followed that which I have quoted, that evidence of the quality of the liquors supplied is inadmissible, because the purchaser might choose to sell different beer, manufactured in a different way, and have a smaller ratio of return upon his outlay.

“In the estimate of annual profit which, according to the ordinary course of the brewer’s trade, may be treated as likely to be derived from the supply of liquors to the licensed premises, there has to be added, in order to get a basis for the calculation of their market value, the rent which may be obtained from the tenant, the annual sum, that is to say, which he will be willing to pay in anticipation of the profits which he will receive from the retail sale of the liquors supplied to him by the brewers. Here, again, the actual rent is, in itself, evidence, although, of course, not conclusive evidence, but may be proved by other evidence that the purchaser should expect to get from his tenant a lower or a higher rent. But the annual profit and the annual rent having been obtained, there still remains, in order to ascertain the market value of the licensed premises, the question of the proper capitalisation of each. As to this I have not to consider any dispute of principle. The number of years’ purchase which should be adopted will vary, as it seems to me, with the character of the premises, the circumstances of the locality, the prospects of the improvement of the business done in the particular premises, the general state of the liquor trade, and the competition in the market for the acquisition of this class of property; and the assessing tribunal must, in each case of dispute, decide according to the weight of the evidence of competent witnesses.

“In both these cases with which I am dealing the inquiry has been conducted in all respects upon the lines which I have indicated as being, in my opinion, proper and legitimate lines, and I must confess myself unable to see in what other way the market value of licensed premises could satisfactorily be ascertained in any case in which there is no full rack rent to serve as a guide to the true annual value.

“I proceed now to consider the remaining matter of principle



which is in controversy in the present cases, namely, the propriety of the inclusion in the amount of compensation of a sum representing that which is called the interest of the tenant of the licensed premises. The petitioners claim to add to the total sum of the capitalised brewers' profits the capitalised rent and the depreciation of trade fixtures, a figure which their expert witnesses put forward as representing such interest. The respondents contest, and in my judgment rightly contest, this claim. I do not think any such addition is authorised by the statutes which govern these proceedings. Those statutes prescribe as the amount of compensation a sum which is composed of the licensed premises in the open market, less their value as unlicensed premises, and plus depreciation of trade fixtures. There is no suggestion anywhere that in order to ascertain the amount of compensation the value of the various interests in the premises is to be computed. Nor is any such compensation a factor in the calculation of the market price of the premises. Neither this Court, nor the Commissioners of Inland Revenue, before whom the matter came at an earlier stage, have any concern with the division of the amount of compensation. In my view the legislature has plainly indicated how the fund is to be calculated. This scheme, as I understand it, is not at all analogous to the scheme of compensation of interests where property is compulsorily transferred under the Lands Clauses Act.<sup>1</sup>

"The provisions of sec. 2 of the Licensing Act, 1904, as I read them, embody a scheme of that which may fairly be termed equitable compensation for the loss, whenever a licence is not renewed under sec. 1, of a valuable interest, which otherwise might reasonably be expected to endure, although no equal right

<sup>1</sup> It is obvious that the petitioners' claim amounts to the inclusion twice over, of the same factor. The tenant's interest is measured by the rack rental which he is willing to pay for the premises. If this figure is properly ascertained it is obvious that the tenant's interest has gone. It is similar to the case of a lease where the lessee is paying the full rack rent. Such a lease is of no value in the market. In ascertaining the rack rental which a tenant will pay, however, the valuer should have regard to the possible profit which can be made from the house, as explained in an earlier part of this volume. The tenant's share, to be apportioned by quarter sessions, should obviously be the value of the profit rental, if any, which he enjoys, but having regard to the provisions of sec. 2 (2) (see next page), plus his interest in the sum awarded for depreciation of fixtures.—C. A. W.

of permanence could be claimed for it. So the legislature has created a fund out of the value of the licence, which the quarter sessions is to apportion, as it deems just, between all persons who are interested in the premises in respect of which the licence has ceased to exist. The assessment of the compensation, as the Solicitor-General put it, is to be made purely upon a property basis. Out of a fund which represents the value of the property in the market, plus the sum for depreciation of fixtures, and minus the value of the premises without the licence, and which, in its composition, has no relation to the value of the several interests affected, the statute decrees an apportionment by way of compensation in which all persons interested in the premises, and the tenant as well as the owner, are to share as the quarter sessions may deem fair and right.

“That which I have ventured to describe as the equitable character of the scheme appears, I think, prominently in the provisions for the treatment of the licence holder which are contained in sec. 2 (2): ‘Provided that in the case of the licence holder regard shall be had not only to his legal interest in the premises or trade fixtures, but also to his conduct and to the length of time during which he has been the holder of a licence; and the holder of a licence, if a tenant, shall (notwithstanding any agreement to the contrary) in no case receive a less amount than he would be entitled to as tenant from year to year of the licensed premises.’

“The provision as to the inclusion, in the amount of compensation, of a sum for the depreciation of the value of trade fixtures by reason of the non-renewal of the licence (as I interpret that provision) appears to me to point the same way. The trade fixtures may belong to landlord only; they may belong to tenant only; they may belong partly to the one and partly to the other. But to whomsoever they belong, the sum which represents the amount of the depreciation is to go into the common fund for compensation which the quarter sessions is to divide amongst all persons interested in the premises.

“It appears to me that to add to the statutory constituents of the amount of compensation a sum which represents an estimate of the interest of the tenant is a proceeding which is neither consistent with the express provisions of the statute (the Licensing Act, 1904, and the Finance Act, 1894) nor agreeable to the nature of the general scheme of the legislation contained in the Licensing Act,

"I now come to the consideration of the two cases before me. I shall take them separately in the order in which they were argued, except as to the one important matter which affects both equally.

"The expert witnesses called for the petitioners and the witnesses called by the Commissioners appeared to agree that, in the capitalisation of annual profits, the ordinary or normal number of years' purchase which should be taken is twelve. For special reasons applicable, in their view, to the 'Crown' in the one case, and to the 'Hand and Spear' in the other, the latter set of experts calculated upon a basis of eight years in the case of the 'Crown,' and nine years in the case of the 'Hand and Spear'; but I understood them to admit that the more liberal basis adopted by the witnesses for the petitioners would, but for these special reasons, be the usual and proper basis. The learned counsel for the Commissioners of Inland Revenue invited me to treat the twelve years' purchase as excessive and extravagant; suggested that a figure much nearer three years would be reasonable, and referred me, upon this point, to the case of *Page v. Ratcliffe* (75 L. T., N. S. 371), which I have already had occasion to cite in the course of this judgment. It appears to me that, whereas the Commissioners of Inland Revenue have, as is stated in the memorandum, a large discretion as to the means which they may employ in obtaining information for their guidance, it is the plain duty of this Court, as a judicial tribunal, to act in this, as in all other points in controversy between the parties, upon the evidence given in the particular case. I have already had occasion to point out that the number of years' profits which a purchaser of this class of property will give cannot be treated as constant, but will vary according to circumstances, some of which I have enumerated. In *Page v. Ratcliffe*, it is true, a three years' scale was adopted in the judgment of Mr Justice Stirling, and as I read his judgment, rather with approval than disapproval. But he manifestly felt himself bound to adopt it, because in that case the valuers for all parties agreed that such a scale was proper, and, further, because, as the judgment states, 'the summons has been argued on the footing that the valuations were to stand, and, if they were now to be impeached, that must be done in a different way.'

"In the two cases before me I have come to the conclusion,

as will presently appear, that the character and condition of these particular premises, upon the evidence before me, are such as to render just some departure from the twelve years' purchase sale, as to the propriety of which, but for such special circumstances, the expert witnesses in these cases display a singular unanimity of opinion. I am ready to admit that without the guidance of this testimony I should have been inclined to think the sale, as a normal one, too high. At the same time one must bear in mind, as the memorandum points out in regard to the capitalisation of the annual value of licensed premises, that the circumstances of the particular trade carried on in them render non-existent any risk of not securing a continuity of occupation; and a continuity of occupation of the premises means a continuous consumption of the produce of the owner's brewery.

"In regard to the 'Crown' I assess the amount of compensation as follows:—

"The barrelage is agreed to be 169 barrels. Mr Marks puts the fair average profit at 15s. per barrel; Mr Fuller and Mr Thornton at 16s.; Mr Page at 13s. 6d.; Mr Lee at 13s.; and Mr Holroyd at 13s. 2½d. In this conflict of evidence upon a very technical question, I think that the fairest course is to put this figure at 14s. 6d. This, with the annual profit on spirits, £18. 15s., capitalised at ten years' purchase, makes a total figure of £1,412. 10s. To this I add the capitalised rent of £20 at eighteen years' purchase, that is £360, and £25 for depreciation of trade fixtures, making a total of £1,797. 10s. I desire to point out, in regard to the capitalisation of the rent, that the witnesses on the other side have adopted respectively a sixteen and a half and a fifteen years' purchase scale, on account of the character and condition of the premises, as against the twenty years given by Mr Marks. I consider both in this case, and also in the case of the 'Hand and Spear,' that the most just and correct method of taking into account this element of deterioration from value is to make a fair deduction from what may be termed the normal number of years' purchase both in regard to the capitalisation of profit and in regard to the capitalisation of rent.

"To obtain the net result I hold that a sum of £300—I think that this was practically agreed between the parties—should be deducted from the sum of £1,797. 10s. and I therefore assess

the amount of compensation in the case of the 'Crown' at £1,497. 10s.

"There is only one further remark which I think it necessary to make in regard to the case of the 'Crown.' I have not overlooked the fact that there was evidence that the licence had been insured for £1,268. 15s., with the Law Guarantee and Trust Society, Ltd. I do not think I ought to allow this fact to affect my judgment as against the petitioners so as to interfere with my conclusions on the rest of the evidence.

"The assessment of the amount of compensation which I make in the case of the 'Hand and Spear' is as follows :—

"As to the barrelage upon which the annual profit is to be based, I think that the fairest course is to add something to the average of the last three years. It appears to me that, in view of the influx of navvies for the construction of main drainage works, which obviously affected the trade in 1900, 1901, and 1902, Mr Marks' figure of 171 barrels, based upon the average of a five years' figure, cannot safely be adopted. The matter cannot be dealt with with any pretence to certainty, but, proceeding upon the basis which I have indicated, I have assumed a barrelage of 130 barrels. As to the profit on these there is a similar divergence of opinion. Mr Marks, who on some former occasion appears to have given the figure of 12s. 6d., puts it now at 13s., and Mr Thornton agrees with him; Mr Page and Mr Lee put it at 10s., and Mr Holroyd says 9s. 6d. In this difference of skilled opinion, and with an uncertainty as to the qualities of the beer supplied in the assumed 130 barrels, I put the average profit at 12s. a barrel. I take eleven years in this case, and not ten years as in the case of the 'Crown,' as the number of years for the purpose of capitalisation, because, although the premises also are described as being in a very indifferent condition, the licence is a *pre-1869* licence. The resulting figure is £858. Adding to this the capitalised rent on an eighteen years' scale, £432, and £25 for depreciation of trade fixtures, we have the figure of £1,315, and the deduction from this of £192 for the value of the premises, without the licence, leaves a total value of £1,123 as the amount which I find to be the just and proper amount of compensation, and I give judgment accordingly.

"If any of the particulars of the arithmetical calculation are found not to be perfectly accurate, they can of course be corrected."

## CHAPTER XI

### TITHE RENT-CHARGES

TITHES were originally a voluntary gift for religious purposes, but in very early times they became enforced by ecclesiastical and later by the civil law of the land. There is no trace of a statute by which the right to tithes is conferred upon the Church, but as early as 970 the laws of King Edgar provided penalties for neglect of the duty of paying tithes.

Tithes were originally paid by landowners at their own discretion to monasteries, or bishops, or to the support of particular churches, but as the parochial system grew up this power of appropriation was restricted, and the rector of a parish obtained a pre-emption of the right to the local tithes. Rectories, together with the tithes, were attached to monastic and non-parochial corporations, who performed their duties through vicars. At the dissolution of the monasteries their property, including tithes, passed to the Crown, and was granted by the king to various laymen. These laymen are called "impropriators," in distinction from the clerical rectors, who are "appropriators."

**Tithe Commutation.**—By the Tithe Act, 1836, provision was made for the abolition of tithes. Commissioners were appointed, who ascertained the value of the existing tithes in each parish or district according to the average price of wheat, barley, or oats in the previous seven years.

This sum they apportioned upon the lands in the parish, and it was provided that the payment of tithes should be replaced by a tithe rent-charge varying with the price of corn. The Board of Agriculture, as successors to the Tithe Commissioners, ascertain the price of corn in 196 towns throughout the country, and each year publish the average price of wheat, barley, and oats in the previous seven years. The rent-charge for the succeeding year is the sum

which at these prices could purchase the same amount of corn as was purchasable by the apportioned tithe at the average prices for the seven years prior to 1836. The tithe rent-charge payable in 1913, in respect of £100 commuted tithe, was £74. 14s. 9½d. During the 77 years since the commutation the annual value of tithe rent-charge has been above par in 31 years and below it in 46 years, and it has now stood below par for 30 years consecutively.

**Redemption, Merger, Apportionment.**—Provision is made in the Act of 1836 and subsequent Acts for redemption, merger, and apportionment. The total sum chargeable at the commutation was £4,054,406, which was reduced by redemption and merger to £3,704,056 in 1911, the total of the rent-charges payable being £2,637,558.

The tithe rent-charge on any land may be redeemed, and the instructions issued by the Board explaining how redemption may be carried out are given below (see p. 162).

The payment for redeeming the charge amounts, excluding expenses, to twenty-five times the commuted tithe, or at present nearly thirty-six years' purchase of the annual charges, so that very little is redeemed except under special circumstances.

**Tithe Rent-charge Payable by Landlord — Tithe Rent-charges Rateable.**—Tithe rent-charge is payable by the landlord, and any covenant for the tenant to pay it is invalid. The tithe owner pays rates and land tax upon the tithe receivable by him.

Tithe rent-charges, except in the hands of lay impropriators, are exempt from half rates by the Tithe Rent-charges (Rates) Act, 1899.

Where the tithe rent-charge for any twelve months exceeds two-thirds the profits of the land as entered in Schedule B. of the Income Tax Assessment, the County Court may remit the excess, and the tithe owner may obtain relief from rates upon the sum thus remitted.

**Corn Rents** are of the same nature as tithe rent-charges, but were instituted by special Acts of Parliament. In some cases it is provided by the Act that they shall be free from payment of rates and taxes.

**Extraordinary Tithe Rent-charge.**—Special provisions were included in the Tithe Act, 1836, for the valuation of tithes on hops, fruit and garden produce, coppice, wood, etc. Land cultivated for hops or fruit, or as market gardens, paid the ordinary tithe rent-charge of the parish, and also an extraordinary rent-charge at a rate per acre over the district. The district for this purpose might be a part of a parish, so that the extraordinary rent-charge might vary with different lands in the parish.

The extraordinary tithe rent-charge under the Act of 1836 was abolished by the Act of 1886. The Act provided that no land not used at the date of the Act as hop ground, orchard, fruit plantation, or market garden should in future be subject to an extraordinary tithe rent-charge, and that the existing charge on land so used should be commuted into a fixed annual rent-charge equal to 4 per cent. on the capital value of the existing extraordinary tithe rent-charge, to be ascertained and certified by the Land Commissioners, and that the rent-charge might be redeemed by payment of such capital value.

Extraordinary tithe rent-charges are exempted from all rates by the Act of 1886.

#### BOARD OF AGRICULTURE AND FISHERIES.

*Instruction for the Redemption of Tithe Rent-charges and Corn Rents, or other Payments in lieu of Tithes, under the Tithe Acts, 1836 to 1891.*

**1. Acts which govern the redemption of Tithe Rent-charges.**—The provisions applicable to the redemption of tithe rent-charges are contained in the Tithe Acts, 1846, 1860, and 1878 (9 & 10 Vict., c. 73, 23 & 24 Vict., c. 93, and 41 & 42 Vict., c. 42); and by the Tithe Rent-charge Redemption Act, 1885 (48 & 49 Vict., c. 32), the same provisions are applicable to the redemption of corn rents, and other payments charged on lands by virtue of any Act of Parliament in lieu of tithes.

**2. Circumstances in which Tithe Rent-charge can be redeemed and who can apply.**—Applications for redemption can be made to the Board of Agriculture and Fisheries as follows:—

- (a) When the land has been taken for places of worship, cemeteries, schools under the Elementary Education



Acts, town halls, court-houses, gaols, lunatic asylums, hospitals, or any other public buildings, or under the Artizans' Dwellings Act, 1875; or for sewage farms under the Sanitary Acts, or for the construction of any sewers or sewage works, or any gas or water works, or for enlarging or improving premises used for any of the above-mentioned purposes.

The Tithe Act, 1878, requires that the rent-charges shall be redeemed in these cases; and the application is to be made by the persons in possession of the land before the land is applied to any of the purposes aforesaid, the rent-charge being redeemable for 25 times the amount thereof.

- (b) When the land is charged with a rent-charge not exceeding 20s.

In this case the application may be made by the land-owner, or by the owner of the tithe rent-charge, and the rent-charge is redeemable, if the Board see fit, for 25 times its amount.

If the land has not been divided as indicated in (d), the Board do not order redemption on the sole application of the owner of the tithe rent-charge, unless he shows that the collection of the rent-charge involves unreasonable difficulty or expense.

- (c) When the land is charged with a rent-charge exceeding 20s.

In this case the rent-charge may be redeemed on the joint application of the owner of the land and the owner of the tithe rent-charge for a sum *not less* than 25 times its amount; but when the rent-charge is held in right of a benefice, the consents of bishop and patron are also necessary, and may be signified on the application.

- (d) When the land has been divided since the last apportionment into numerous plots for building or other purposes, so that no further apportionment can conveniently be made.

In this case the application may be made by the owner of any of the plots, or by the owner of the tithe rent-charge, and the rent-charge is redeemable for 25 times its amount. An application made by a

land-owner must not include any number on the tithe map which has a separate rent-charge, unless he owns part of the land to which it refers.

In all cases the basis of redemption is the amount set out in the tithe apportionment, and not the varying value according to the corn averages from year to year.

**3. Forms of application.**—Forms of application will be supplied by the Board on request.

**4. Land divided for building or other purposes.**—When an application is made for compulsory redemption in consequence of the lands having been divided for building or other purposes, the number of plots and the number of owners, so far as the same can be ascertained, should be stated. The names of the principal owners, the number of plots, and the extent of land held by each, as well as the names of the streets on, over, or adjacent to, the lands, should also be supplied.

**5. When land leased.**—When the land is let on a beneficial lease for a term which originally exceeded fourteen years, the freeholder or lessor and the lessee, being joint owners within the meaning of the Tithe Acts, must jointly make the application.

**6. Reasons for application to be stated.**—The circumstances in which the application is made, and the reasons for making it, should be fully stated on the application or in an accompanying letter.

**7. Redemption as to part only of Tithe Plot.**—Where it is desired to free from liability to tithe rent-charge a part only of a tithe field charged with a separate tithe rent-charge, without freeing the rest of the field, an altered apportionment, to fix the amount chargeable on the part to be so freed, must precede redemption. Such altered apportionment is not practicable if it involves the imposition of any rent-charge less than 5s., the minimum of subdivision by altered apportionment permitted by the Tithe Acts. If no such altered apportionment is practicable, the entire rent-charge may usually be redeemed compulsorily: *see* para. 2 (*d*).

**8. Expense saved by voluntary payment.**—In the case of divided land much expense may be saved if the land-owners

arrange amongst themselves as to the proportion to be paid by each toward the redemption money and office fees, and thus avoid the cost of assessment and collection which compulsory redemption entails.

**9. Notices of application to redeem.**—When the application has been examined by the Board and approved, notices are, as a rule, sent to the applicant to be posted in the parish, fixing a time within which objections may be made to the proposed redemption. In cases where the redemption money is paid voluntarily and the owner of the tithe rent-charge joins in the application for redemption, the posting of such notices is usually unnecessary.

**10. Order of redemption.**—If no objection is made, or if no objection made is sustained, the Board make an order for the redemption of the rent-charge. If the redemption money is to be paid voluntarily, instructions as to such payment are then sent to the applicant for redemption.

**11. Assessment of redemption money and expenses.**—When the redemption money is not paid voluntarily, the Board, under the provisions of the Acts, proceed to prepare a schedule or rate assessing the sum payable upon the several part owners of the land charged. The rate includes the redemption money, the Board's fees and expenses, and the other charges, if any. The proportion of redemption money arising out of land appropriated as public roads or streets is equitably distributed over the remainder of the tithe field.

**12. Deposit of rate in the parish for inspection.**—The rate is deposited in the parish for inspection, and notice thereof is posted on the church door, etc., so that any land-owner may ascertain the sum assessed on his property.

**13. Collection of redemption money, etc.**—After the lapse of 21 days, and when the objections to the rate, if any, have been disposed of, the collection of the sums assessed by the rate is proceeded with.

**14. Persons liable to contribute to the redemption.**—The persons liable to contribute to the redemption are the owners in the actual possession or receipt of the rents or profits of the

land, including holders of beneficial leases for terms originally exceeding 14 years.

**15. How money may be recovered.**—If an owner refuses or neglects to pay the sum assessed on his property, the amount may be recovered through the County Court in accordance with the provisions of the Tithe Act, 1891, and the Tithe Rent-charge Recovery Rules, 1891.

**16. Time at which the Tithe Rent-charge is extinguished.**—The tithe rent-charge ceases and is extinguished as soon as payment has been made of the half-yearly portion of the tithe rent-charge accruing due subsequently to the payment of the whole of the redemption money ; but, in the meantime, the tithe rent-charge continues payable notwithstanding the redemption proceedings, and is collected by the owner of the rent charge.

**17. Issue of certificate of redemption.**—When the total amount has been collected and the redemption money paid under the direction of the Board to the persons entitled to receive it, a certificate under the seal of the Board is issued, declaring the rent-charge redeemed. The Certificate of Redemption is retained in the custody of the Board, and may be inspected on payment of a fee of 1s. Any person interested can be supplied with a copy of the certificate on payment of a small charge for the cost of preparing it.

**18. Sealed copies of certificate.**—Sealed copies of the certificate are deposited in the parish, usually in the custody of the incumbent, the churchwardens, and with the registrar of the diocese.

**19. Fees.**—Certain official fees are payable on redemptions of tithe rent-charge. The amount payable in any case can be stated by the Board when particulars of the rent-charge to be redeemed are furnished.

## CHAPTER XII

### VALUATION FOR RATING

THE law and practice of rating require very careful attention, and involve the study of numerous Acts of Parliament and decisions of the Courts. It is impossible here to discuss the minute points of the subject, but the principles are given below in sufficient detail for the reader to follow the various points in valuation. For a more thorough study of the subject reference may be made to Webb's "Rating and Assessment," published by Messrs Crosby Lockwood & Son, price 7s. 6d. net.

Rates are leviable generally in respect of land, houses, tenements, mines, and other hereditaments, as well as upon tithes, sporting rights, and franchises. Incorporeal hereditaments such as easements are not rateable *per se*, but the dominant tenements must be rated at their value as enhanced by reason of the privilege.

**Rates levied on Occupier.**—The rates are as a rule levied upon the occupier, that is to say, the person actually using the house. Thus the owner of an empty house, although the legal occupier, will not be rated, but the property should be inserted in the valuation list. If, however, the house is furnished, such owner will be rateable although he may not actually use the house during the whole year: similarly, if he only use part of a house, he will be rateable for the whole. Where a caretaker is left in possession of an otherwise empty house merely for the purpose of protection and to show people over, rates, as a rule, are not collected.

**Beneficial Occupation.**—The occupation must be beneficial, but this must not be confused with profitable. Thus, public roads and parks dedicated to the public are not rateable, as the local authority in whom they vest is not deemed to have

any beneficial occupation. On the other hand, schools, fire stations, and other public buildings are rateable, as in these cases the local authority is compelled to provide such buildings, and if they did not possess these particular ones, they would either have to pay a rent or to build suitable premises. They cannot make a profit out of such buildings, but they are, nevertheless, deemed to have a beneficial occupation.

Lodgers are not rateable, as they are not in occupation of a separate hereditament. Occupiers of flats, however, are rateable.

**Exemptions.**—Certain properties are exempt from rating either by common law or by special statute. The principal are :—

Crown and Government property. The Treasury, however, generally pay a contribution in lieu of rates on these properties.

Houses in the occupation of ambassadors and other representatives of foreign Powers, and their servants. In these cases also the Treasury generally makes a contribution.

Churches and chapels used exclusively for public worship, or for Sunday or infant schools, or for the charitable education of the poor.

Societies instituted for purposes of science, literature, or the fine arts exclusively, provided that they are supported wholly or in part by voluntary contributions, and that no dividends or profits are paid to the members. The society must be registered by the Registrar of Friendly Societies.

Lighthouses, buoys, beacons, etc.

Militia storehouses.

Extraordinary tithe rent-charge.

Sunday and ragged schools, at the option of the authority making the rate.

Voluntary schools, except to the extent to which profit is made by the managers by letting.

There are also a few exemptions of particular properties by old Acts.

The following properties are only liable to be rated at the

same value as was in force at the time of taking the property for the particular purposes.

Some burial grounds.

Dockyards and fortifications.

Lands, etc., for telegraphic purposes.

In the case of light railways the assessment must not be greater than if the land had remained in the condition in which it was immediately before its acquisition for the purposes of the railway.

In many cases canals are subject to special rating by comparison with the value of neighbouring lands.

Agricultural land is subject only to half rates under the Agricultural Rates Act. The Act defines agricultural land as land used as arable, meadow, or pasture ground only, cottage gardens exceeding one quarter of an acre, market gardens, nursery grounds, orchards, or allotments, but not land used together with a house as a park, gardens other than aforesaid, pleasure grounds, or any land kept or preserved mainly or exclusively for purposes of sport or recreation, or land used as a racecourse.

Tithe rent-charge attached to a benefice is subject to the same partial exemption.

The Public Health Act, 1875, gives exemption in respect of the following properties from three-fourths of the general district rate in an urban parish, or special sanitary rates in a rural parish. Tithes, tithe commutation rent-charge, land used as arable, meadow, or pasture ground only, or as woodlands, market gardens, or nursery grounds, land covered with water, or used only as a canal, or towing path for the same, or as a public railway. "Railway" here only means the running lines, and not the stations and other buildings and sidings.

In the case of *Mayor, etc., of Wakefield v. Wakefield and District Light Railway Co.* (1908, A. C. 293), it was held that a light railway, constructed under the provisions of the Light Railway Act, 1896, laid along open streets, over which the public had the right of passing, and physically resembling a tramway in every respect, was none the less land "used only as a railway" in the meaning of the Public Health Act, and that the occupiers were entitled to the deduction of three-fourths of the general district rate and special rate, although tramways pay rates on their full value.

The Public Libraries Act, 1892, exempts arable, meadow or pasture grounds, woodlands, market gardens, and nursery grounds from two-thirds of the library rate.

Similarly, the Lighting and Watching Act, 1833, exempts land from two-thirds of the rate levied under the Act.

**Owner liable for Rates.**—In some special cases the owner is liable for rates instead of the occupier. With regard to the poor rate, by virtue of the Poor Rate Assessment and Collection Act, 1869, sec. 1, "The occupier of any rateable hereditament let to him for a term not exceeding three months shall be entitled to deduct the amount paid by him in respect of any poor rate assessed upon such hereditament from the rent due or accruing due to the owner, and every such payment shall be a valid discharge of the rent to the extent of the rate so paid."

Sec. 2. "No such occupier shall be compelled to pay to the overseers at one time, or within four weeks, a greater amount of the rate than would be due for one quarter of the year."

Sec. 3. "In case the rateable value of any hereditament does not exceed £20 if the hereditament is situate in the metropolis, or £13 if situate in any parish wholly or partly within the borough of Liverpool, or £10 if situate in any parish wholly or partly within the city of Manchester or the borough of Birmingham, or £8 if situate elsewhere, and the owner of such hereditament is willing to enter into an agreement in writing with the overseers to become liable to them for the poor rates assessed in respect of such hereditament, for any term not being less than one year from the date of such agreement, and to pay the poor rates *whether the hereditament is occupied or not*, the overseers may, subject nevertheless to the control of the vestry, agree with the owner to receive the rates from him, and to allow to him a commission not exceeding 25 per cent. on the amount thereof."

Sec. 4. "The vestry of any parish may from time to time order that the owners of all rateable hereditaments to which sec. 3 extends, situate within such parish, shall be rated to the poor rate in respect of such rateable hereditaments, instead of the occupiers, on all rates made after the date of such order." In such cases overseers must allow an abatement of 15 per cent., and if an owner agrees to pay rates in respect of all such small properties, whether they are occupied or not, the overseers must



rate him and give him a further abatement not exceeding 15 per cent. Sec. 4 is only applicable where the hereditaments include a dwelling-house.

In municipal boroughs where the overseers have made an order rating owners as above mentioned, it will also apply to the borough rate. In London, the above provisions apply to the whole of the General Rate. The above-mentioned limits have been extended in West Ham to £13, and in Croydon to £20 by private Acts.

The reader will find the abatements allowed in the various metropolitan boroughs and in parishes in the neighbourhood of London in the returns of Rates Made, published annually by the London County Council.

Sec. 7 of the Representation of the People Act, 1867, enacts that: "Where the dwelling-house or tenement shall be wholly let out in apartments or lodgings not separately rated, the owner of such dwelling-house or tenement shall be rated in respect thereof to the poor rate."

In *White and Hales v. Mayor, etc., of Islington* (1908) it was contended that the Poor Rate Assessment and Collection Act, 1869, repealed this provision, but the Court of Appeal held that it was still in force and unaffected by the Act of 1869.

With regard to general district rates, the Public Health Act, 1875, enables the urban authority to rate the owners in the following cases, viz., where the rateable value of any premises does not exceed £10, or where any premises liable to the rate are let to weekly or monthly tenants; or where any premises so liable are let in separate apartments, or where the rents become payable or are collected at any shorter period than quarterly. The owner is assessed on such reduced estimate as the urban authority deem reasonable, being not less than two-thirds nor more than four-fifths of the net annual value; and where such reduced estimate is in respect of tenements, whether occupied or unoccupied, then such assessment may be made on one-half of the amount at which such tenements would be liable to be rated, if the same were occupied and the rate were levied on the occupiers.

**Gross and Rateable Values.**—The Parochial Assessments Act of 1836 directed that "no rate for the relief of the poor in England and Wales shall be allowed by any justices, or be of any

force, which shall not be made upon an estimate of the *net annual value* of the several hereditaments rated thereunto ; that is to say, of the rent at which the same might reasonably be expected to let from year to year, free of all usual tenant's rates and taxes, and tithe commutation rent-charge, if any, and deducting therefrom the probable average annual cost of the repairs, insurance, and other expenses, if any, necessary to maintain them in a state to command such rent."

The Union Assessment Committee Act of 1862 provides a form for the Valuation List, which contains columns for "gross estimated rental" and "rateable value."

Gross estimated rental is defined as "the rent at which the hereditament might reasonably be expected to let from year to year free of all usual tenant's rates and taxes and tithe commutation rent-charge, if any." The definition of "net annual value" in the Act of 1836 is retained.

So far as London is concerned, the Valuation (Metropolis) Act, 1869, repeals these definitions and gives others, as follows:—

"The term 'gross value' means the annual rent which a tenant might reasonably be expected, taking one year with another, to pay for an hereditament, if the tenant undertook to pay all usual tenant's rates and taxes, and tithe commutation rent-charge, if any, and if the landlord undertook to bear the cost of the repairs and insurance, and the other expenses, if any, necessary to maintain the hereditaments in a state to command that rent.

"The term 'rateable value' means the gross value after deducting therefrom the probable annual average cost of the repairs, insurance, and other expenses aforesaid."

In the definitions of gross value in the Acts it is assumed that the tenant pays the tithe commutation rent-charge where there is any such charge upon the land. By the Tithe Act, 1891, however, this charge was placed upon the owner, and any contract for the tenant to pay the tithe rent-charge is void. It follows, therefore, that where tithe rent-charge is paid by the owner, the amount must be deducted from the rent in arriving at gross value.

Another important point to notice is that the definitions in the Acts of 1836 and 1862 state "the rent at which the hereditament *might reasonably be expected to let from year to year*"; and in the 1869 Act, "the rent which a tenant *might reasonably*

*be expected to pay, taking one year with another.* The overseers have to make an estimate of the value. The rent actually paid will in most cases be the best guide, but in some cases the rent is found to be excessive, and in other cases it is found that for some reason the landlord has let the premises to the tenant at a lower rent than he could get from other persons. Such cases are common ; for example, where a tradesman has established a local connection the landlord may possibly compel him, upon a renewal of the tenancy, to pay a much higher rent than anybody else would pay, as, if there are no other shops available, the tenant may otherwise lose his business connection. In this case it would obviously be unfair to take the rent paid as a basis of rateability. On the other hand, premises are commonly let to tenants of old standing, or again to relations or connections, at rents which do not come up to the full value.

**Deductions between Gross and Rateable.**—With regard to the amount to be deducted from gross estimated rental in respect of repairs, etc., no provision is made in the Act of 1862, and the practice varies widely throughout the country. In some cases, too, the values are all stated as pounds, while in others, fractions of pounds are included in the list.

**Deductions between Gross and Rateable in London.**—The Valuation (Metropolis) Act of 1869, however, contains in the third schedule the maximum deductions which are to be allowed in London, and it is the general practice not to include fractions of pounds in the list.

## VALUATION (METROPOLIS) ACT, 1869

## THIRD SCHEDULE

*Showing the several classes into which the hereditaments inserted in a valuation list under this Act are to be divided.*

	Maximum rate of deduction— per cent. or proportion.
Class 1. Houses and buildings, or either of them, without land other than gardens, where the gross value is under £20	25 or $\frac{1}{4}$ th.
Class 2. Houses and buildings without land other than gardens and pleasure grounds valued therewith for the purpose of inhabited house duty, where the gross value is £20 and under £40	20 or $\frac{1}{4}$ th.

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Class 3. Houses and buildings without land other than gardens and pleasure grounds, valued therewith for the purpose of inhabited house duty, where the gross value is £40 or upwards - - - - -	Maximum rate of deduction—per cent. or proportion. 16 $\frac{2}{3}$ or $\frac{1}{3}$ th.
Class 4. Buildings without land which are not liable to inhabited house duty and are of a gross value of £20 and under £40 -	20 or $\frac{1}{3}$ th.
Class 5. Buildings without land which are not liable to inhabited house duty and are of a gross value of £40 or upwards -	16 $\frac{2}{3}$ or $\frac{1}{3}$ th.
Class 6. Land with buildings not houses - - - - -	10 or $\frac{1}{10}$ th.
Class 7. Land without buildings - - - - -	5 or $\frac{1}{20}$ th.
Class 8. Mills and manufactories - - - - -	33 $\frac{1}{3}$ or $\frac{1}{3}$ rd.
Class 9. Tithes, tithe commutation rent-charges, and other payments in lieu of tithe - - - - -	To be determined in each case according to the circumstances and the general principles of law.
Class 10. Railways, canals, docks, tolls, waterworks, and gas-works - - - - -	
Class 11. Rateable hereditaments not included in any of the foregoing classes - - - - -	

The maximum rate of deductions prescribed in this schedule shall not apply to houses or buildings let out in separate tenements, but the rate of deductions in such cases shall be determined as in Classes 9, 10, and 11.

## MAKING OF VALUATION LISTS

**Outside London.**—The making of valuation lists outside London is controlled by the Union Assessment Committee Acts of 1862 and 1864. The assessment committee can order the parishes comprised in the union area to be revalued whenever they deem it necessary. Some unions are revalued every one, three, or five years ; but, as a rule, the interval is longer than in London, where all properties are reassessed every five years.

The overseers of each parish in the union make a valuation list containing all the rateable premises in their parish. The services of an expert valuer are generally obtained for this purpose.

**Deposit of Valuation Lists.**—After the valuation list has been signed by the overseers, it is deposited at their offices, or where the rate books are kept (after a copy of the list has been supplied to the Board of Guardians). Notice of the deposit of the list is posted on the church doors on the Sunday next following the deposit of such list, and all persons assessed therein, or liable to be assessed, have a right to inspect it, and to take extracts therefrom.

At the expiration of fourteen days from the date of the

notice the overseers transmit the valuation list to the assessment committee.

**Objections to Valuation List.**—Any overseer or overseers, or any ratepayer, who may feel himself aggrieved on the ground of unfairness or incorrectness in the valuation of his own or any other hereditaments included, or on the ground of the omission of any rateable hereditament from the list, may before the expiration of twenty-eight days after the notice of the deposit of the list, give the assessment committee and the overseers notice in writing of his objection. The nature of the objection should be specified, and if the appellant objects to any other person's assessment he must also give notice to such other person. The assessment committee have the power to revise any assessment in the valuation list, and may employ a valuer to assist them. When all the alterations or revisions are completed, they formally approve the list, which is signed by three members of the committee present at the meeting when the list is approved.

**Re-deposit of Valuation List.**—If the committee make any alteration in the valuation of any premises in the list or insert any additional assessment therein, they must re-deposit the list, the procedure being similar to that adopted when the valuation list was first made by the overseers, and a meeting must be held not more than fourteen days or less than seven days after the notice of re-deposit is given, for the purpose of hearing objections to the list as altered.

The valuation list, when finally approved, remains in force until another valuation list is made, subject to the addition thereto of any supplemental valuation lists made from time to time for the purpose of bringing into rating any premises newly erected, and of giving effect to any reduction or increase of value in any property already in the valuation lists.

Upon notice of objection to an assessment in the list being served, a notice is in due course sent to the appellant informing him that he must attend the union assessment committee meeting on a given date and time and substantiate his case. In the event of a reduction being made, the altered figures are inserted in a supplemental valuation list. The ratepayer should receive an amended rate demand note based on the lower assessment for the

whole of the period of the rate. If the rate has been paid, the occupier is entitled to a rebate.

If the ratepayer is dissatisfied with the result of his interview with the assessment committee, he may appeal to special or quarter sessions.

**Assessment of New Houses.**—The Union Assessment Committee (Amendment) Act, 1864, provides that: "When any person occupies any new house or other building in any parish where the poor rate is not made under the provisions of a local Act, which house or building was incomplete, or not fit for occupation, or was not entered as such in the valuation list in force in the parish at the time when the current rate for the time being was made, the overseers may enter such house or building with the name of the occupier thereof and the date of the entry in the rate book, and require the occupier to pay such amount as, according to their judgment, shall be the proper sum, having due regard to the rateable value of such house or building, and the time which shall have elapsed from the making of the current rate to the date of such entry, and the person so charged shall be considered as actually rated from such date, and shall be liable to pay the sum assessed in like manner, and subject to the like penalty of distress, and with the like power of appeal, as if he had been assessed for the time when the rate was made. Provided that, when the said overseers shall so enter the said house or building in the rate book, they shall forward to the assessment committee of the union comprising such parish, if any such there be, a supplemental list with reference to such house or building."

This section does not apply to the general district rate, in which case new property can only be charged from the commencement of the following rate, and in order that new houses may be charged rates without undue delay, supplemental lists are generally made shortly before the making of a new rate, so that the rating authorities may take the increase in rateable value into their calculations when preparing their estimates for new rates.

In the metropolis, valuation lists are prepared in accordance with the Valuation (Metropolis) Act, 1869.

**Overseers and Assessment Committees in London.**—The Metropolitan Borough Council appointed under the London Government Act, 1889, have taken over the duties of the over-

seers. By virtue of the same Act, the assessment committee is appointed by the Metropolitan Borough Council, except where a union is partly in one borough and partly in another, in which case the committee is still appointed by the Guardians of the Poor for the union.

**Making of Valuation Lists in London.**—It is the duty of the borough council to make and sign a valuation list in duplicate every fifth year. This list is called the Quinquennial Valuation List.

Returns prescribed from time to time by the Income Tax Act or the Commissioners of the Treasury are furnished by the surveyors of taxes in the month of February to the borough councils, who serve them upon occupiers and owners liable to pay rates. They must be returned to the borough council, duly completed, not later than twenty-one days after the service of the notice.

When the information has been extracted from the borough council, the forms are sent, together with a duplicate copy of the valuation list, to the surveyor of taxes, who in turn transmits the forms to the assessment committee.

The assessment committee may require the owner as well as the occupier of a hereditament to furnish a return in writing as to the rent receivable, or any other necessary particulars, and every such owner or occupier must obey the order within fourteen days after such order has been served upon him.

If any person wilfully refuses or neglects to make any return lawfully required under the Act within the statutory periods, he is liable, on summary conviction, to a penalty not exceeding £5. Further, if any person wilfully makes or causes to be made a false return, he is liable, on summary conviction, to a penalty not exceeding £10.

During April and May the borough councils make a valuation of all the houses, etc., within the borough, and cause their seal to be affixed to the list. The list is placed on deposit for the inspection of ratepayers, at the town hall or principal office of the borough council, for a period not less than fourteen days, or more than seventeen days, and when the overseers (borough councils) insert in the valuation list some hereditament not previously assessed, or raise the rateable value of some hereditament above

the value stated in the previous valuation list, or where the assessment committee in revising the list as mentioned below (otherwise than in determining an objection) alter a valuation list by inserting therein some hereditament, or by raising the gross or rateable value of some hereditament comprised therein, the borough councils immediately after the deposit or re-deposit of the list, as the case may be, must serve on the occupier of such hereditament a notice of the gross and rateable value thereof inserted in the valuation list. The ratepayer is informed as to his new valuation only when his premises appear in the list for the first time, or when an increase has been made. Persons, therefore, who have not had their assessments altered, and who are desirous of seeking a reduction, should avail themselves of their right of inspecting the list when on deposit.

The notice of the deposit and re-deposit of the valuation list will state the times and manner in which objections are to be made. Forms to enable an objection to be made can be obtained on application to the town clerks, who will supply the necessary forms in duplicate, one to be returned to the borough council and the other to the assessment committee within the prescribed period.

**Grounds on which Objections may be made.**—Objections may be made before the assessment committee by any person who feels himself aggrieved by reason of the unfairness or the incorrectness of the valuation of any hereditament, or by reason of the insertion or incorrectness of any matter in the valuation list, or of the omission of any matter therefrom, or if any of the details required by the Act have not been complied with. The notice of objection must specify the correction which the objector requires. The majority of objections are against the valuation of the premises occupied by the person objecting, and in such cases the ground of objection would be that “the assessment was incorrect, unequal, and unfair, and not in accordance with the law.” In every instance, notice of objection must be given before the expiration of *twenty-five days after the deposit* of the list.

**Valuation Lists to be Revised, Certified, and sent to Overseers.**—The assessment committee revises the valuation list before the 1st of October in the same year. Not less than



sixteen days after the transmission of the list to them by the overseers they must hold a meeting for hearing objections to such list, and they, the assessment committee, must give notice of a meeting for hearing objections to a list not less than sixteen days before such meeting. After they have approved the list they re-deposit it with the borough council within three days after its approval, and a day is appointed, not less than fourteen nor more than twenty-eight days after such re-deposit, for hearing objections to the alterations which the assessment committee has made, and the objector must give seven days' notice. Special attention should be given to the dates, as shown on the notices published by the borough council, otherwise the aggrieved ratepayer may find that his objection cannot be heard, on the ground that it was received after the specified time. It should be said, however, that these dates, although they appear from the Act to be mandatory and binding on the authorities, have been held by the Courts to be directory only. After all the objections have been determined—a very lengthy process in most of the London boroughs—the list is approved, the new totals of the gross and rateable value columns are ascertained, and a certificate that the provisions of the Act have been complied with is affixed at the end of the list, and signed by three members of the assessment committee present when the list was approved. The valuation list is then sent to the borough council, when it is deposited in the place in which the rate books are kept, and a duplicate of the list is sent to the London County Council, who extract the totals therefrom, and send copies of the totals to all the various authorities empowered to make rates.

**Appeal to Special Sessions.**—In every petty sessional division in the metropolis, the justices of the peace acting in such division hear appeals against the lists, which they must determine before the ensuing 1st of January.

An appeal to special sessions can be made by any person who is aggrieved by any decision of the assessment committee on an objection made with respect to the unfairness or incorrectness of the valuation of any hereditament included in such list, but not otherwise, and the right of appeal to special sessions does not deprive a person of any other right to appeal; that is to say, he may take his case to quarter sessions. The decision of the

justices in special sessions only applies to the hereditament concerned in the appeal, and if a ratepayer is successful in obtaining a reduction, his assessment in the list is amended, but the totals of the list are not altered, and the assessment committees are compelled to appeal to quarter sessions to amend the totals of the list, the alteration to which has been caused by, it may be, the revision of one assessment.

The justices have the power of compelling the attendance and examination of witnesses, the taking of evidence, and enforcement of their orders. The cost of taking an appeal to special sessions is much less than that of an appeal to quarter sessions; but an appeal even to special sessions is not to be entered on lightly, without proper advice as to the probable cost and results.

Notices as to the holding of special sessions are published annually on the church and chapel doors throughout the borough by the borough councils.

**Appeal to Quarter Sessions.**—The Court of quarter sessions has similar powers of hearing appeals against assessments in the list, and can also hear objections against the list itself. The procedure before quarter sessions requires briefing of counsel, and entails heavy expenditure upon the parties, and a ratepayer will therefore be well advised to make sure of his ground before appealing.

There is no appeal from the decision of sessions except on points of law, when the Court will state a case for the opinion of the High Court.

**Duration of Valuation List.**—The valuation list as approved by the assessment committee (subject to any alterations made therein by special or quarter sessions) comes into force at the beginning of the year (commencing on 6th April) succeeding that in which it is made. It lasts for five years, subject to any alterations that may be made by any supplemental or provisional list, as described below.

**Rate to be levied, notwithstanding Appeal.**—Notwithstanding any appeal which may be pending, every rate to which the valuation list applies must be paid in accordance with the figures in such list, and if a subsequent reduction is obtained, the amount overpaid is refunded, or, if an increase is made, the

amount under-collected is deemed to be an arrear and recovered accordingly. It should be noted that questions of refundments on assessments placed in a provisional valuation list are in quite a different category, as described below.

**Rates to which List applies.**—The valuation list for the time being in force applies to the following rates and taxes :—

(a) County Rate, Metropolitan Police Rate, the Church Rate (if any), the Highway Rate, the Poor Rate, the Police, Sewers, Consolidated and other rates in the city of London, Sewers, Lighting, General and other rates formerly levied by the Vestries, and every other rate and contribution levied in the metropolis on the basis of value. All the rates are, however, now merged into one rate, termed the General Rate, levied and collected by the borough councils.

(b) The tax on houses levied under the House Tax Acts. Any tax assessed in pursuance of the Income Tax Acts, and in all cases where the tax is charged on the gross value and not on profits.

**Provisional Lists.**—If in the course of any year the value of any hereditament is increased by the addition thereto or erection thereon of any building, *or is from any cause* increased or reduced in value, the borough council will make what is called a Provisional List, and insert the premises affected at a higher or lower assessment, as the case may be. Some doubt has been experienced in the interpretation of the words in italics. In the case of *Ellis v. Camberwell* the assessment committee sought to increase the assessment of a public-house because a higher premium had been paid on the purchase of the business, and as a premium is a commutation of rent and paid in advance, it was argued that the assessment was rightfully increased by reason of the value of the premises being enhanced by the increase in the premium. The House of Lords held, however, that the increase in the value must be attributable to something specific or tangible, such as the construction of additional bars or rooms, and a general rise in the value of public-houses, which was due to greater prosperity or otherwise of the public, or to a “boom” in the trade which could not be ascribed to a permanent cause. This verdict carries with it the converse proposition, that an

assessment must not be reduced between the quinquennial periods merely because of a new letting at a lower rent. Most of the authorities, however, do reduce assessments under these circumstances.

*R. v. The Assessment Committee of the Metropolitan Borough of Southwark, ex parte S. E. & C. R. Co. Managing Committee* (1908), is an important case. The company required the assessment committee to appoint a valuer to make a provisional list by reason of the value of the railway being reduced owing to the keen competition of tramways, tube railways, and motor omnibuses. The assessment committee held that a reduction of receipts in business was not such an alteration in value as contemplated in sec. 46 of the Act. The High Court, however, issued a mandamus for the committee to appoint a valuer. Lord Justice Vaughan Williams said: "There is here an alteration as permanent and of such a substantial character as to bring the case within the section."

The procedure for obtaining a revision in an assessment is fairly simple. Usually on a written application to the town clerk of the borough in which the appellant resides, a printed form is sent requiring information as to the conditions of tenure, inquiries are duly made to verify the ratepayer's statements and submitted to the committee acting as overseers. The decision is entered in a provisional valuation list, and the appellant informed as to the figures inserted therein. If unsatisfactory, he may object before the assessment committee. On receipt of the list the clerk of the assessment committee serves on the surveyor of taxes a copy of the list, and serves on the occupier of any hereditament to which the list relates a copy of so much thereof as relates to that hereditament. Every copy is accompanied by a notice specifying a day, being not less than fourteen days after the date of the service of the notice, on or before which any objection to the provisional list may be made, and stating the mode in which an objection is to be made.

An objection either by the surveyor of taxes or occupier must be in writing, in triplicate, and must be sent to the clerk of the assessment committee, the overseers, and the surveyor of taxes, or the occupier, or such of them as the case may require.

The clerk of the assessment committee on the receipt of the notice of objection summons a meeting of the committee, and gives notice of the time and place of such meeting to the over-

seers, surveyor of taxes, and the occupier, and the committee duly hear and determine the objection.

Full evidence as to the value of the house concerned should be presented; leases, agreements, rent receipts, and all documents in connection with the case should be exhibited; mere verbal statements are very unsatisfactory, and the occupier who cannot support his objection without documentary evidence is likely to be unsuccessful.

There is no appeal from the decision of the assessment committee on the provisional list.

A provisional list comes into operation from the date of the receipt of the notice from the assessment committee; in other words, the reduction or increase, as the case may be, takes effect from that date, and in this respect the ratepayer residing outside the metropolis has an advantage over the Londoner. In the provinces, as previously pointed out, the alteration dates from the commencement of the rate current when the objection was served.

**Supplemental Lists.**—The rating year ends on April 5, and the provisional lists made during the twelve months are embodied in one list, called the Supplemental Valuation List, and the same rules laid down for the formation of the quinquennial valuation equally apply to the supplemental list, but in the case of *Parrish v. Hackney Borough Council* (1911) the Appeal Court held that the supplemental valuation list should include all revised and new assessments made prior to the signing of such list by the assessment committee. If his objection earlier in the year was unsuccessful, the ratepayer can again secure a hearing, and if he is then more fortunate, he can generally secure a refundment from the date of the provisional list notice. The Act provides that "when the next revision of the valuation list takes place, the list as approved and altered *on appeal* contains a smaller value for the hereditament comprised in a provisional list; the amount of rate or tax which has been overpaid in consequence of the larger value having been stated shall be repaid or allowed." Although the Act only refers to reductions *on appeal* (which means appeal to sessions), the refundment is generally made also in cases of reduction consequent on objections before the assessment committee.

The same rights of appeal to special and quarter sessions

apply in the case of supplemental lists as in the case of the quinquennial lists.

**Inspection of Documents.**—Any ratepayer on payment of a fee not exceeding one shilling may at any reasonable time inspect and take copies of and extracts from any valuation list, notices of objection, returns, and other documents in the possession or under the control of the assessment committee. The rate books, under the control of the borough council, may also be inspected at any reasonable time without payment of any fee.

It will now be necessary to show how the gross estimated rental or gross value, and the net annual value or rateable value, are arrived at in respect of various kinds of property. It should be mentioned that in London it is the practice of the London County Council to call a conference of rating authorities before each quinquennial revaluation. Resolutions are passed (the members of the County Council not voting) upon various points. These resolutions are not binding upon the overseers and assessment committees, but with some few exceptions they are generally followed.

#### HOW VALUES ARE ARRIVED AT

##### **Ordinary House Property let on Yearly Tenancy.**—

These premises are generally let on the terms contemplated in the definition given above of gross and rateable value, except that tithe rent-charge, where payable, must be deducted.

**Weekly or Monthly Tenancies, the Owner paying Rates.**—In these cases allowance is generally made for deducting the rates, etc., by means of a scale varying with the rate in the £ of rates and water rates. Many of the scales also allow a small deduction called “contingency balance,” to allow for any small rise in the rates while the scale is in force, and also for the fact that the rent to a yearly tenant may be regarded as slightly less than fifty-two times the weekly rent, or twelve times the monthly rent.

**Flats** are dealt with in the same way as the above properties, according as to whether the landlord pays rates or not. A deduction must also be made from the rent for expenses of lifts, lighting and furnishing hall, staircase, etc., wages of caretaker, etc

**Premises held upon Lease** where the Occupier is liable for Repairs.—In these cases the rent paid generally corresponds to the net annual value or rateable value as defined by the Acts, and should be so taken, an addition being made to arrive at gross value. It is the usual practice in London, however, to add 10 per cent. to the rent to give gross value, the usual deduction then being made for rateable value. The different results obtained by the two methods will be seen from the following example :—

Rent upon lease, £200.	Gross.	Rateable.
Assessment by taking rent as rateable value, and adding $\frac{1}{5}$ to give gross (equal to deduction of $\frac{1}{6}$ from gross to give rateable) - - - -	£240	£200
Ditto, but adding $\frac{1}{4}$ (equal to deduction of $\frac{1}{5}$ ) - - - -	250	200
Assessment by London method - -	220	184

**Land.**—Where assessed apart from buildings, the value will be based upon the rent, or at a figure of so much per acre, according to value by comparison. The deduction between gross and rateable again varies considerably.

**Plantations, Woods, and Saleable Underwoods.**—These properties were made rateable by the Rating Act, 1874, which lays down the basis of assessment as follows :—

Sec. 4. “(a) If the land is used only for a plantation or wood, the value shall be estimated as if the land, instead of being a plantation or a wood, were let and occupied in its natural and unimproved state.

“(b) If the land is used for the growth of saleable underwood, the value shall be estimated as if the land were let for that purpose.

“(c) If the land is used both for a plantation or a wood and for the growth of saleable underwood, the value shall be estimated either as if the land were used only for a plantation or a wood, or as if the land were used only for the growth of the saleable underwood growing thereon, as the assessment committee may determine.”

**Tithe Rent-charge.**—The annual value will in this case be assessed by deducting the charges necessary to obtain the

income, viz., cost of collection and loss by empties, poor and other local rates (not sewers rate, as this is a landlord's charge), and the salary of the minister of a district church where this has to be met. The gross and rateable values will be the same. Extraordinary tithe rent-charge is exempt from rating.

**Warehouses, Factories, Public Buildings,** such as Schools, Town Halls, Fire Stations, etc.—As these premises are not usually let at a rent, the same persons being both owner and occupier, the assessment is arrived at where possible by comparison, at so much per square or per square foot of floor space. Where this method is not possible, the “contractors’ test” must be resorted to. The land is taken at a fair ground rent or at a percentage on its value, and to this is added a percentage on the value of the buildings. This is supposed to give the rent which the occupier would be willing to pay if the building were provided by another person and rented. The present value of the building should be taken, that is to say, the cost of a similar building at present prices, less a fair deduction for any deterioration which would cause a tenant to pay a less rent. The difference in the value thus arrived at and the original cost may, owing to the difference in prices of labour and materials, be considerable. In some cases also it is fair to make a deduction in respect of non-rateable items, that is to say, items which the owner may put in for his own satisfaction, but which would not increase the rent. Any unforeseen expenditure owing to difficulty of site, etc., should also be excluded. The percentage to be applied to the capital figures will vary with circumstances. In a commercial building 4 per cent. for land and 5 per cent. for buildings will generally be fair rates for rateable value, addition being made to give the gross. With regard to public buildings, opinion is very much divided as to what percentage to be used. The London quarter sessions took 4 per cent. on land and 5 per cent. on buildings to give gross value in the case of the schools of the London County Council, but in these cases they took the actual cost and not present value. In many cases such premises are taken at 3 per cent. for rateable.

**Factories with Machinery.**—Machinery may be divided into two classes, viz. : (1) that which forms part of the freehold, such as boilers, engines, and shafting, and (2) other trade



machinery, including, for example, lathes, printing machines, and other machinery special to the trade. Machinery of the first class was held in *Chidley v. West Ham* to be rateable in the same manner as the land and buildings. With regard to the second class of machinery, the ruling case is *Tyne Boiler Works Co. v. Longbenton*. It was held that such machinery was not rateable, *per se*, but must be taken into account in so far as it enhances the value of the hereditament. This decision, however, does not give the rating surveyor or assessment authorities much guidance. When machinery is rated it is generally done by taking a percentage upon its value as an estimate of rental value. In some districts all machinery is included in the assessment, while in others all machinery, or all except the first motive power, is left unassessed. In London the usual percentage adopted is 10 per cent. for gross value, but the Conference of 1909 fixed  $7\frac{1}{2}$  per cent. as the rate at the last quinquennial revaluation. The question arises whether cost or present value should be taken as the basis for assessment where a percentage is applied. Supposing the machinery is as efficient when ten years old as when it was new, the rent which a tenant would be willing to pay will be as great as when the machinery was first installed, and this shows that cost is the fair basis. Any deterioration which affects the working must, of course, be allowed for, as well as difference in price of such machinery between the two dates, also obsolescence, as it might now be possible with the same sum to purchase a much more effective and economical machine. In the case of railways, etc., in allowing a deduction on account of tenant's capital, where the rolling stock, etc., has been in use some time, such rolling stock, etc., must be taken at its depreciated value, and not with reference to prime cost. If second-hand carriages, etc., will serve the purpose of the hypothetical tenant, he cannot be supposed to fix his rent on the supposition that he will have to provide new rolling stock (*R. v. North Staffordshire Railway Co.* (1860), 30 L. J. M. C. 60). The deduction between gross and rateable also varies in different parts of the country. In London the maximum deduction sanctioned by the Act is one-third, but it is obvious that this should not be allowed where the value of the machinery is a small part only of that of the whole factory. If the whole third is taken in all cases, it will frequently give a rateable value lower than if there were no

machinery on the premises, and the usual reduction of one-sixth were allowed. A fair figure may generally be obtained by deducting one-sixth from the portion of the gross value which is in respect of land and buildings, and two-fifths from that which is due to machinery.

**Sewers and Sewage Works.**—Sewers wholly underground are generally left unassessed by general consent, although by a recent case there is no question as to their rateability. Sewers above ground and sewage works are taken at a low percentage on cost of works.

**Public Roads, Bridges, and Parks.**—These are exempt from rating. The Brockwell Park case is the leading case on this point.

**Hospitals and Charitable Institutions.**—Although there is no legal sanction for such a practice, these properties are generally assessed somewhat below the value which would be placed upon them if the premises were used for other purposes, and in some cases at nominal figures.

**Public Libraries and Museums.**—These institutions are rateable, and should legally be treated in the same manner as town halls, fire stations, and other public buildings, but in many cases they are either left out of the valuation list altogether or inserted at merely nominal figures.

**Advertisement Hoardings.**—These are frequently rented by the contractors at rents much below their value, owing to the ignorance of the occupiers of the land or buildings who let the site for advertising purposes, but they should be assessed at their fair value. The Advertising Stations (Rating) Act, 1899, enacts that where it is attached to a rated hereditament, the value of the hoarding must be included in that of the hereditament. This is an unfortunate provision, however, if the house, etc., become unoccupied, as the owner may become liable to pay rates on the whole premises, or, on the other hand, may escape rates altogether. The Conference of London Rating Authorities resolved to assess such advertising stations separately from the buildings.

**Assessment upon Profits.**—Such undertakings as railways, tramways, gas and electricity undertakings, waterworks,

cemeteries, and racecourses are not often let at a rent, and it thus becomes necessary to resort to an examination of the profits of the undertaking to estimate what rent an occupier could be expected to pay.

**Railways.**—The method will be best understood by tracing the procedure in arriving at a valuation of a railway.

First, the undertaking is divided into two parts: (1) the “indirectly productive” portion, consisting of stations, offices, signal boxes, etc.; and (2) the “productive” portion, consisting of the running lines.

The value of the indirectly productive part is obtained by applying the contractor’s test to the stations, signal boxes, sidings, offices and signals, etc., in the parish; that is to say, a percentage is taken on the value of the land, buildings, etc.

Coming now to the directly productive portion, the first step is to estimate the gross receipts in the parish. This is generally arrived at by taking the number of train miles run on each route in the parish, and multiplying by the receipts per train mile on each route.

From the gross receipts must be deducted a sum for working expenses, including management, repairs, and renewals of rolling stock, etc., rent (annual value) of stations, etc., rates and taxes, and the interest, profit, etc., which a tenant would expect for working the undertaking. This will give the gross rental, and the net annual value will be obtained by deducting the average annual cost of repairs and renewals of the permanent way.

A detailed valuation is given in Webb’s “Rating and Assessment,” all the various items being discussed at length.

**Gas Undertakings.**—The indirectly productive part will be the offices, works, including retorts, gas-holders, etc., and the dead mains, that is to say those which are used to conduct the gas from the works to the streets in which the live mains are laid. The directly productive part will be the live mains, that is to say, the mains which are tapped by the consumers’ pipes. There is much difficulty in some cases in deciding between live and dead mains, but this must be decided in each case upon the circumstances.

The indirectly productive part will be assessed on the con-

tractors' basis, and the productive portion upon the same basis as explained in the case of railways.

**Electricity and Water Supply Undertakings and Tramways**, as well as cemeteries, racecourses, etc., will be treated in the same manner with the necessary modifications. Telephone wires are often assessed at so much per mile, but the proper method is that based upon profits in the same way as the other undertakings referred to above.

**Municipal Trading Concerns.**—In dealing with these the surveyor must be alive to the fact that full charges are not always made, and if he considers that the prices are less than would be made by a commercial company, and that the profits are thereby reduced, he is justified in taking this fact into account. In some electricity supply undertakings he may consider that the price credited for public lighting is too high or too low, and where the undertaking is combined with a dust destructor he may consider that too much is allowed for the steam generated by the refuse. He will be well advised, however, not to depart from the actual sums transferred in the accounts unless he is quite sure that he can make his ground good in Court if necessary.

**Allotments.**—Under the Allotments Act, 1887 (sec. 7 (2)), the Parish Council or Urban or Rural District Council owning the land is to be rated, but they are directed to apportion the amount of rates paid among the tenants and to recover it with the rent.

**Licensed Premises.**—Hotels and public-houses present great difficulties to assessment authorities. A publican, in renting or purchasing such premises, is guided by the trade which he thinks the house is capable of doing. The takings and payments for liquor in past years are generally produced for a purchaser's inspection, but he will make allowance if he considers such trade cannot be maintained, or, on the other hand, if he thinks it can be increased under his management. The assessment authorities, however, cannot always get this information. If they can only obtain the takings there is considerable difficulty in estimating the rental value from this figure, although committees often take a

rough proportion of about 10 per cent. of the takings to give gross value.

Where houses are let with a premium, it is a common practice to take a proportion of this and spread it over the period. It is a moot point, however, how much of the premium should be considered as payment for personal goodwill in any particular case, and excluded from the calculation. The Conference of London Rating Authorities, held in 1909, passed a resolution that one-half the premium should be taken. This is obviously insufficient in most cases, as the premium is paid for the monopoly value to a much greater extent than one-half, and the element of personal goodwill is in the majority of cases very small. Mr Walter C. Ryde, the great authority on rating, pointed out in a paper read before the Surveyors' Institution that the goodwill which is to be deducted is only such personal goodwill as would leave the house by reason of the outgoing tenant moving. On the other hand, in some cases where the management was not up to the average standard, there would be, so to speak, a minus goodwill. It is obvious, too, that if a fixed proportion of the premium only is taken, brewers can reduce the assessments of their houses by taking large premiums and allowing small rents, or by taking a larger proportion of the rent in the shape of extra profit on the beer supplied.

The case is complicated by the fact that the great majority of licensed premises in London and many large towns are owned by brewers, who let them to tenants with the condition that they shall purchase all their malt liquors from them. In the same way the premium necessary on purchasing a house is frequently advanced by brewers, one of the conditions of the mortgage being that the house is "tied" to them. Some houses are tied not only for malt liquors, but also for spirits, and even cigars, etc. The rent or premium of a tied house is obviously less than that of a free house, where the tenant is at liberty to buy his goods in the open market. It has been held that the value of the tie must be included in the assessment. Mr Justice Montague Smith laid it down in *Sunderland v. Sunderland* (34 L. J. M. C. 121), that "publicans are really paying part of their rent in the extra price they are charged for the beer, and clearly the shape in which they pay cannot alter the rateable value." Thus the assessment of a house should be just the same, whether it is tied or free.

The whole of the rates, however, are payable by the occupier, and there is no doubt that in a large number of cases, where the tenant pleads that the house is only of a certain value to him, the tie is accordingly not properly included in the assessment. The occupier upon entering a house does not realise that he is liable for rates upon the value of the tie to the brewer, and thus the only way in which tied houses can effectively be assessed at the figures which the law warrants, is by the rating of the brewers direct for the value of the tie to them.

## CHAPTER XIII

### VALUATION FOR TAXATION

#### Land Tax

**Basis of the Tax.**—The present land tax is the survival of a very ancient tax levied upon lands, etc. In the year 1692 the tax was levied as follows, viz., 4s. in the £ on real estate, assessed on the *bona fide* rack rent, and on personal estate, 24s. per £100 capital value, or 4s. in the £ on £6, the annual value thereof. Stock on land and household goods were exempt. The Commissioners appointed by the Act made a return of the total assessment of each district to the King's Remembrancer. In 1789 the tax was fixed at £1,905,077, the quota for each division and subdivision being in the proportions assessed by the Act of 1692, and these quotas still form the basis of the tax.

All landed property, with certain exemptions to be mentioned later, is to be assessed, and the quota collected by an equal pound rate upon the real yearly value of the property in the district. There is, however, no definition of yearly value in any of the Acts, and the tax is levied on empty as well as occupied property. Any person liable to pay the tax can redeem it upon payment of thirty times the amount payable in the year, and the quota of the district is reduced by any sum so redeemed. Owners will be well advised to redeem the tax where they intend rebuilding their property or making alterations which will increase the annual value.

By the Finance Act, 1896, the tax is limited to 1s. in the £, and any portion of the quota not paid out of this sum is remitted by the Exchequer. Where the income of the owner is under £160 he is exempt, and where the income exceeds £160 but is under £400, the owner is exempt from one-half of the tax. Exemption should be obtained before payment is made, as no sum paid can

be returned. Application should be made to the surveyor of taxes. The sums lost by this exemption are also remitted by the Exchequer, and do not fall upon the owners of other property in the district. The tax charged is never less than 1d. in the £, and any sum thus received in excess of the charge on the district is allotted to the redemption of part of the quota.

In 1798 the number of parishes contributing to the tax was 16,104, and of these the quotas of 912 parishes were redeemed by March 1912, the total amount of the quotas in that year being £936,200, and the tax, after deducting remittances, yielded about £700,000.

The tax is assessed and collected under the superintendence of local commissioners. The assessment is generally based upon the poor-rate valuation; but in some parishes the gross value is used, and in others the net value. The tax is levied upon the occupier, but he can deduct it from his rent if there is no contract that he shall bear the charge. The occupier can only deduct the tax in respect of the rent paid by him. Thus, if a house is assessed at £90 per annum and the tenant only pays £60 rent, he can only deduct two-thirds of the land tax. If, however, he has also paid a premium which is equal to the difference in annual value and the rent paid, he can deduct the whole of the tax. In the case of copyhold land, the tenant can only deduct the tax in respect of annual quit-rents, and not in respect of fines and other uncertain payments.

**Exemptions.**—The Sovereign is exempt, the tax on property owned by the Crown being payable by the occupier, and where the tax is redeemed, the amount is payable as rent.

Certain colleges, halls, and charities are also exempt from the tax, and others to the extent of the rents payable in 1693.

The exemption in the case of small incomes has been referred to above.

### Inhabited House Duty

**Basis of the Tax.**—The Inhabited House Duty was first imposed in 1778, and it has been levied at its present rate since 1890, lodging-houses being included in the lower scale since 1891. It is assessed and levied with the Income Tax (Schedule



A), but is collected from occupiers on the gross value of inhabited dwelling-houses, and not upon the net value, as in the case of the Income Tax. The rates of duty are as follows :—

	Gross value £20 to £40 inclusive.	Gross value over £40, not exceeding £60.	Gross value over £60.
Shops, hotels, public-houses, coffee- houses, farm - houses, lodging- houses - - - - }	2d. in £	4d. in £	6d. in £
Ordinary houses - - - - }	3d. in £	6d. in £	9d. in £

The gross value outside London is fixed by the Income Tax Commissioners, and is the same as the annual value for Income Tax (Schedule A, sec. *k*). Within the metropolis the gross value in the poor rate is conclusive for the purposes of Inhabited House Duty under the provisions of the Valuation (Metropolis) Act, 1869.

**Exemptions.**—The following properties are exempt :—

1. Properties belonging to the Crown or members of the Royal Family.
2. Properties of less than £20 annual value.
3. Unoccupied houses, or houses in which there is only a caretaker. These properties are assessed, but the tax is remitted.
4. Shops and business premises where the only person residing on the premises is a servant or other menial person sleeping there for the protection of the premises.
5. Any hospital, charity school, or home provided for the reception or relief of poor persons.

**Business Premises.**—Where any part of a house is occupied, the tax will be levied on the full value of the whole premises, but by the Customs and Inland Revenue Act of 1878 (41 & 42 Vict., c. 15, s. 13) it is provided :

“(1) Where any house, being one property, shall be divided into and let in different tenements, and any of such tenements are occupied solely for the purposes of any trade or business, or of any profession or calling by which the occupier seeks a livelihood or profit, or are unoccupied, the person chargeable as occupier of the house shall be at liberty to give notice . . . and

the Commissioners shall . . . grant relief . . . so as to confine (the assessment) to the duty on the value according to which the house should, in their opinion, have been assessed, if it had been a house comprising only the tenements other than such as are occupied as aforesaid or are unoccupied.

“(2) Every house or tenement which is occupied solely for the purposes of any trade or business, or of any profession or calling by which the occupier seeks a livelihood or profit, shall be exempted from the duties . . . And this exemption shall take effect, although a servant or other person may dwell in such house or tenement for the protection thereof.”

**Servant or other Person.**—By 44 & 46 Vict., c. 12 (s. 24) (1881) the term “servant and other persons” is defined. “The term ‘servant’ shall be deemed to mean and include only a menial or domestic servant employed by the occupier, and the expression ‘other person’ shall be deemed to mean any person of a similar grade or description not otherwise employed by the occupier, who shall be engaged by him, to dwell in the house or tenement solely for the protection thereof.”

Sec. 15 of the Finance Act, 1911, provides as follows:

“15. The fact that the husband or wife of a caretaker, or other member of the family of a caretaker, or the servant of a caretaker, dwells in any house or tenement together with the caretaker shall not be of itself sufficient to deprive the house or tenement of the benefit of any exemption under Schedule B, case 5, of the House Tax Act, 1808, or sub-section (2) of section 13 of the Customs and Inland Revenue Act, 1878.”

**Stables, Coach-houses, etc.,** used by a livery-keeper, or for other business purposes, will be exempt if only inhabited by a servant; but such properties used for other purposes and similarly inhabited will be subject to duty on the full value of the premises.

**Stables, Outbuildings, and Gardens** to the extent of an acre will be included in the assessment as well as warehouses, etc., except warehouses, etc., attached to wharves and in the occupation of wharfingers, and warehouses used for storing merchandise or for manufacturing purposes, and which, although communicating with the dwelling-house, are distinct buildings.

**Shops.**—The term “shop” means a dwelling-house occupied by any person in trade who exposes to sale and sells any goods, wares, or merchandise in any shop or warehouse being part of the same dwelling-house, and in the front, on the ground or basement storey thereof. Thus it will be seen that premises used as a bank with living-rooms over, and even premises used as sale-rooms, but where the goods are not exposed for sale, will be subject to the higher rate of duty.

**Lodging-Houses.**—The term “lodging-house” means any house occupied in any year by a person for the main purpose of letting furnished lodgings therein as a means of livelihood. The occupier must get his house registered before 1st July in a list of lodging-house keepers, kept by the Clerk of the Commissioners; and application must be made to the Commissioners before 1st October for reduction of the rate of charge.

**Nurseries.**—It is specially provided that market gardens and nurseries are not to be included in the valuation of a dwelling-house.

**Tenement Dwellings.**—The Revenue Act of 1902 (s. 11) makes an important concession in the case of blocks of dwellings. Where a house, so far as it is used as a dwelling-house, is used for the sole purpose of providing separate dwellings, each separate tenement may be treated as a separate house, provided that a certificate is obtained from the local medical officer of health that the house is so constructed as to afford suitable accommodation for each of the families or persons inhabiting it, and that due provision is made for their sanitary requirements. This provision is, it will be realised, a very important one to the owners of such property. Thus, in the case of a block of, say, eight tenements each assessed at £18, prior to the Act the owner was liable for house duty at 9d. in the £ on £144, but is now relieved altogether, as each tenement is of less value than £20.

**Common Lodging-Houses.**—Section 35 of the Housing and Town-Planning, etc., Act, 1909, provides (1) that “The assessment to Inhabited House Duty of any house occupied for the sole purpose of letting lodgings to persons of the working classes, at a charge of not exceeding sixpence a night for each person, shall be discharged by the Commissioners acting in the execution of the

Acts relating to the Inhabited House Duties, upon the production of a certificate to the effect that the house is solely constructed and used to afford suitable accommodation for the lodgers, and that due provision is made for their sanitary requirements. (2) The provisions of sub-section (2) of section 26 of the Customs and Inland Revenue Act, 1890, in relation to the certificate mentioned therein, shall, so far as applicable, apply to the certificate to be produced under this section.

### Income Tax

**Basis of the Tax.**—The Income Tax is a tax now imposed annually by the annual Finance Act, but Taxes Acts are all read as one Act, and the rules and case law continue with reference to each tax imposed. The tax is supposed to be levied upon the income of any person whatsoever from every source in the United Kingdom, as well as on the income of residents in the kingdom from foreign sources. Any British subject whose ordinary residence shall have been in Great Britain, and who is residing temporarily abroad, is deemed to be a person residing in the kingdom. A person living in the kingdom temporarily for a period of less than six months during the year is exempt from tax under Schedule D.

The tax is assessed and levied by local commissioners appointed by the Land Tax Commissioners from their own number, under the superintendence of the Inland Revenue Department and its officers, the inspectors and surveyors of taxes. The income tax year extends from 6th April in one year to 5th April in the next year, the tax being due on the intervening 1st January.

By sec. 141 of the Income Tax Act, 1842, as amended by sec. 10 of the Revenue Act, 1889, the tax may be paid before the 1st of January, and the Commissioners are authorised to allow discount at the rate of  $2\frac{1}{2}$  per cent. per annum.

**Rate of Tax.**—The rate in the £ varies from year to year with the requirements of the Chancellor of the Exchequer, and the abatements have varied from time to time. The rates for the last six years have been as follows :

In 1907-8 and 1908-9 at the rate of 1s. in the £ on unearned

income and incomes in excess of £2,000 ; and 9d. in the £ on the earned portion of incomes under £2,000.

In 1909-10 to 1912-13 at the rate of 1s. 2d. in the £ on unearned income and incomes in excess of £3,000 ; 1s. in the £ on the earned portion of incomes between £2,000 and £3,000 ; 9d. in the £ on the earned portion of incomes under £2,000. The tax is levied at 1s. 2d. in each case, the lower rate being obtained by way of abatement (see next page). There is also a super-tax on incomes exceeding, from all sources, £5,000, of 6d. in the £ of the income over £3,000.

**Income of Married Women.**—The income of a married woman living with her husband is deemed to be his income, except where a wife earns an income by the exercise of her personal labour, and the total income of husband and wife does not exceed £500. In this case the income of the wife is treated separately for purposes of exemption and abatement.

The Revenue Act, 1911, provides that where a satisfactory return under sec. 72 (2) of the Finance (1909-10) Act, 1910, cannot be obtained from the husband with regard to his wife's income for the purpose of the assessment of super-tax, a return may be demanded from the wife, and in that case she shall be liable to pay a proportion of the super-tax.

**Abatements.**—Abatements are allowed as follows :—

Incomes not exceeding £160, total abatement.

Exceeding £160 but not exceeding £400, abatement of £160

„	400	„	„	500,	„	„	150
„	500	„	„	600,	„	„	120
„	600	„	„	700,	„	„	70

Premiums paid for life insurance or annuities on the life of the taxpayer or on that of his wife may be deducted, but only to the extent of one-sixth of the income, and not so as to give a claim to a larger abatement on account of the amount of the income. Thus, a person in receipt of an income of £660 and paying £120 premium on life assurance can deduct £110 on this account. This reduces the income to £550, but he can only obtain further abatement of £70 (not £120), thus reducing the taxable income to £480.

An abatement of tax on £10 in respect of each child under

16 years of age is also now allowed where the total income does not exceed £500.

**Earned Incomes.**—With regard to the special abatement of 5d. in the £ on the earned portion of incomes under £2,000, and of 3d. in the £ on the earned portion of incomes under £3,000, it is provided that :

(1) The expression “earned income” means—

- (a) Any income arising in respect of any remuneration from any office or employment of profit held by the individual, or in respect of any pension, superannuation or other allowance, deferred pay or compensation for loss of office given in respect of the past services of the individual, or of the husband or parent of the individual, in any office or employment of profit, whether the individual, or husband or parent of the individual, shall have contributed to such pension, superannuation allowance, or deferred pay or not ; and
- (b) Any income from any property which is attached to or forms part of the emoluments of any office or employment of profit held by the individual ; and
- (c) Any income which is charged under Schedules B or D in the Income Tax Act, 1853, or the rules prescribed by Schedule D in the Income Tax Act, 1842, and is immediately derived by the individual from the carrying on or exercise by him of his profession, trade, or vocation, either as an individual, or, in the case of a partnership, as a partner personally acting therein.

(2) An individual is not entitled to relief in respect of any income the tax on which he is entitled to charge against any other person, or to deduct, retain, or satisfy out of any payment which he is liable to make to any other person.

(3) Where an individual claims relief in respect of earned income, and claims also an abatement under previous Acts, or an allowance for life insurance premiums, the relief in respect of earned income is restricted to such earned income (if any) as

remains after deducting therefrom the allowance for abatement and life assurance.

Thus, if a man's income is £700, half from ground rents and half from the profits of trade or from salary, and he pays £120 per annum on insurance and annuity premiums on the life of himself and his wife, he is entitled to deductions by way of exemption, as follows:—

Income	-	-	.	-	-	-	-	£700	0	0	
Deduct £70, as the income											
does not exceed £700	-							£70	0	0	
Deduct one-sixth of income											
on account of premiums	-							116	13	4	
									186	13	4
Taxable income	-	-	-	-	-	-	-	£513	6	8	

He will pay 1s. 2d. in the pound on £350, and 9d. in the pound on the remainder, £163. 6s. 8d.

The special relief from 1s. 2d. to 1s. or 9d. must be claimed at the same time as the return of income is made, where such return is required, and in any case the claim must be made before 30th September in the year for which the tax is charged. *If the claim is not received by the surveyor of taxes before this date, no reduction, whether by way of repayment or otherwise, can afterwards be made.*

**Deduction from Rent or Interest.**—By the Income Tax Act, 1853 (sec. 40), and the Revenue (No. 1) Act, 1864 (sec. 15), every person who shall be liable to the payment of any rent, or any yearly interest of money, or any annuity or other annual payment, either as a charge on any property or as a personal debt or obligation by virtue of any contract, whether the same shall be received or payable half-yearly or at any shorter or more distant periods, shall be entitled and is hereby authorised, on making such payment, to deduct and retain thereout the amount of the rate or a proportionate amount of the several rates of income tax which were chargeable by law upon or in respect of such rent, etc., or the source thereof, during the period through which the same was accruing due; and the person liable to such payment shall be acquitted and discharged of so much money as such

deduction shall amount unto, as if the amount thereof had actually been paid unto the person to whom such payment shall have been due and payable; and the person to whom such payment as aforesaid is to be made shall allow such deduction, upon the receipt of the residue of such money, under pain of forfeiting the sum of £50 for any refusal so to do; Provided always that no tenant or occupier of any property chargeable under Schedule A of this Act shall be entitled to deduct or retain out of the rent thereof any greater sum than the amount of the duty which shall have been assessed and charged upon or in respect of such property and actually paid by such tenant or occupier.

By sec. 24 of the Customs and Revenue Act, 1888, the provision for deduction is extended to cases of interest, etc., not payable or not wholly payable out of profits or gains brought into charge by such tax. In this case the person deducting the tax must render an account of the amount so deducted, or of the amount deducted out of so much of the interest, etc., as is not paid out of profits or gains brought into charge, as the case may be, and he will be liable for the tax.

#### SCHEDULES

The tax is divided into five schedules for convenience of assessment and collection, as follows:—

Schedule A (commonly called Landlords' Property Tax). In respect of property in all lands, tenements, hereditaments, and heritages in the United Kingdom.

Schedule B. In respect of the occupation of all such lands, tenements, hereditaments, and heritages.

Schedule C. In respect of profits arising from interest, annuities, dividends, and shares of annuities payable out of any public revenue.

Schedule D. In respect of the annual profits or gains of any person residing in the United Kingdom from any kind of property whatever, whether situate in the United Kingdom or elsewhere; or accruing from any profession, trade, employment, or vocation, whether carried on in the United Kingdom or elsewhere.



In respect of the annual profits or gains of any person whatever, whether a subject of His Majesty or not, although not resident within the United Kingdom, from any property whatever in the United Kingdom, or any profession, trade, employment, or vocation exercised within the United Kingdom.

And in respect of all interest, annuities, and other annual profits and gains not charged by virtue of any of the other schedules contained in this Act.

Schedule E. In respect of every public office or employment of profit and upon every annuity, pension, or stipend payable by His Majesty or out of the public revenue, except annuities charged under Schedule C.

**Schedule A.**—The tax under Schedule A is generally levied upon the occupier, but he may deduct it from his *next* payment of rent. Where the annual rent is less than the assessment, he may only deduct tax on the amount of the rent, as he is the owner in respect of the profit rental. The landlord, if he pays ground rent or mortgage interest, may similarly deduct the tax on the amount of such payment. Any agreement whereby the tenant covenants to pay the tax and not to deduct it, is null and void.

The owner is not liable for any period when the property is empty, and can obtain a rebate in respect of any allowance in rent which he has made to the tenant on account of losses caused to crops or stock by tempest or flood, and if he occupies the land himself, he may recover an equitable proportion in respect of such damage.

The schedule includes incomes from ownership of lands, houses and other buildings, tithes, manorial fines, etc., sporting rights, and any other interests in lands.

The tax is charged upon annual value, *i.e.*, the rent by the year at which the premises are let at rack rent, if the amount of such rent shall have been fixed by agreement commencing within the period of seven years preceding the 5th day of April next before the time of making the assessment, but if the same are not so let at rack rent, then at the rack rent at which the same are worth to be let by the year.

The properties are reassessed when directed by the Finance

Act, generally every five years. The gross estimated rental as assessed for the poor rate is usually taken, and in London the gross value in the valuation list is conclusive (Valuation (Metropolis) Act, 1869). In assessing annual value the following deductions are allowed, viz., land tax, where paid by the owner, public drainage rates, the average expense of the owner during the last twenty-one years in building or repairing embankments for protection against the action of the sea or a tidal river, wear and tear of machinery and plant assessed with the buildings and paid for by the owner.

A deduction from the annual value is allowed where the landlord is chargeable with repairs, viz., one-eighth in the case of lands and farms, and one-sixth in the case of houses or buildings, or where the tenant does repairs, such sum not exceeding one-sixth, as shall be necessary to reduce the gross assessment to the rent paid. Where the average cost during the last five years of maintenance, repairs, insurance, and management has exceeded one-eighth in the case of lands or one-sixth in the case of houses not exceeding £8 per annum in value, the owner can claim repayment of the duty on the excess, not exceeding one-eighth in the case of land and one-twelfth in the case of houses. The whole of the properties managed as one estate must be taken together. Maintenance includes replacement of farm houses, farm buildings, cottages, fences, etc., where such expenditure is necessary to maintain the rent.

Tithes in kind and ecclesiastical dues are assessed on the average of the three preceding years, manorial fines and other casual profits on an average of the seven preceding years.

Tithe rent-charge is assessed on an estimate of the amount payable in the year. If the profits exceed the estimate, no extra charge can be made, but if they fall short of it a rebate may be obtained in respect of the excess.

In assessing tithes the following deductions are allowed :—

Tenths and first-fruits, duties and fees on presentations paid in the preceding year; average of the last seven years' payments for procurations and synodals; necessary repairs to chancels, etc., in preceding year; rates; necessary costs of collection.

The following properties are exempt, viz., public buildings and offices belonging to colleges and halls in any of the universities of

Great Britain, and not occupied by any individual member thereof, or by any person paying rent for the same.

Buildings, offices, and premises belonging to any hospital, public school or almshouse, and not occupied by any individual officer or master thereof, whose whole income amounts to £150 per annum, or by any person paying rent for the same.

Rents and profits of lands, tenements, hereditaments or heritages belonging to any hospital, public school or almshouse, or vested in trustees for charitable purposes, so far as the same are applied to charitable purposes.

Buildings belonging to any literary or scientific institution used solely for the purposes of such institution, and in which no payment is made or demanded for any instruction there afforded by lectures or otherwise, provided also that the said building be not occupied by any officer of such institution, nor by any person paying rent for the same.

The duty chargeable on any tenement belonging to the Crown, except apartments in His Majesty's palaces, and occupied by any officer in right of his office or otherwise. In the latter case the tax is to be paid by such officer.

**Schedule B.**—Schedule B is the tax levied upon the farmer for the profits of his occupation, or if the owner retains possession, then his benefit from the use of the land. The profit is assessed at one-third of the annual value under Schedule A, this proportion being considered a fair estimate of the farmer's income. If the occupier can prove, however, that his profit is less, the Commissioners may reduce the assessment; but if his profit is greater, there is no means of raising the assessment. Any person occupying lands for the purposes of husbandry only can, moreover, elect to be charged under Schedule D as for the profits of trade.

**Schedule D.**—The other schedules do not concern real property, but as land and estate agents, etc., frequently have to prepare returns and make claims under Schedule D, it will not be out of place to refer to it here.

The assessments under Schedule D are generally made by additional commissioners appointed by the local commissioners, but the taxpayer may elect to be assessed by the Commissioners without their knowing his name, or by the Special Commissioners

at Somerset House. Upon receipt of notice from the assessor a return of income must be made, whether it amounts to £160 or not. Employers are also compelled to make returns of the names and addresses of, and payments to, all persons in their employ, except those whose remuneration in the employment does not exceed £160, and who also have no other employment. If no return is received from the taxpayer, the Commissioners may make a charge, or if the Commissioners consider the return incomplete they may charge on a higher estimate. In either case the taxpayer may produce his books and accounts for the inspection of the Commissioners.

The following instructions (*inter alia*) are issued by the Inland Revenue Commissioners :—

(5) *Profits of Trade, Profession, Employment, or Vocation.*—Where income is derived from the exercise of any profession or business, attention is particularly directed to the fact that the amount of income to be returned for assessment in any given year is neither the actual income of that year, nor the income which a person expects to make in that year, but is a “statutory” income, of which the amount is to be computed from actual ascertained figures. These are the figures shown by the accounts of the business or profession for the three years immediately preceding the year for which a return has to be made, and the computation from them is to be made according to prescribed rules, of which the following is an abstract :—

#### RULES AND REGULATIONS FOR CALCULATING PROFITS

The tax extends to the profits of all trades, etc., carried on or exercised in the United Kingdom by any person whatsoever, whether a subject of His Majesty or not, and wheresoever residing; and also to the profits or trades carried on or exercised elsewhere than in the United Kingdom, if carried on or exercised by persons residing in the United Kingdom.

AVERAGE.—The amount of profits to be computed on an average of the three preceding years, ending either on the 5th day of April, or on the date prior thereto to which the annual accounts have been usually made up :

Or, if the trade, etc., has been set up or commenced within three years, on an average from the period of commencing the same :

Or, if commenced within the year of assessment, the profits are to be estimated according to the best of your knowledge and belief, and the grounds on which the amount shall have been estimated should be stated for the information of the Commissioners.

In computing the profits upon which the average is to be taken—

DEDUCTIONS ARE ALLOWED—

For repairs of premises occupied for the purpose of the trade, etc., and for the supply or repair of implements, utensils, or articles employed, not exceeding the sum usually expended for such purposes according to the average of the three years preceding.

For debts proved to be bad ; also for doubtful debts according to their estimated value.

For the rent of premises used *solely* for the purposes of business, and not as a place of residence.

For a proportion, not exceeding two-thirds, of the rent of any dwelling-house *partly* used for the purposes of business.

For the annual value of any premises occupied by the owner *solely* for the purposes of business, and not as a place of residence, according to the amount on which duty has been paid under Schedule A.

For a proportion, not exceeding two-thirds, of the annual value (according to the amount on which duty has been paid under Schedule A) of any dwelling-house occupied by the owner and *partly* used for the purposes of business.

For any other disbursements or expenses wholly and exclusively laid out for the purposes of the trade, etc.

NO DEDUCTIONS ARE ALLOWED—

For any interest on capital, for any annual interest, annuity, or other annual payment, payable out of the

profits or gains, or for any royalty, or other sum paid in respect of the user of a patent. (The duty on such interest, patent royalty, or other annual payment should be deducted from the person to whom the payment is made.)

For any sums paid as salaries to partners, or for drawings by partners.

For any sums invested or employed as capital in the trade or business, or on account of capital withdrawn therefrom.

For any sums expended in improvement of premises or written off for depreciation of land, buildings or leases.

For any loss not connected with, or arising out of, the trade, etc.

For any expenses of maintenance of the persons assessable, their families, or private establishments.

For any loss recoverable under an insurance or contract of indemnity.

For any sum paid as income tax on profits or gains, or on the annual value of trade premises.

For any premium for life insurance, or for wear and tear of machinery or plant; but allowances may be claimed in respect of these items (see p. 2 of the Form No. 11).

(6) *Profits and Discounts, and Interest of Money not taxed by Deduction.*—Under this head fall all discounts and untaxed interest received or credited, including interest on banking account or deposits, and also dividends in the public funds of which the half-yearly amount is less than fifty shillings, where such dividends are not payable upon coupons annexed to stock certificates payable to bearer.

(7) *Profits from Colonial and Foreign Securities.*—If received through an agent who deducts British income tax on payment of the income, these profits should not be entered on p. 2 of Form No. 11. But if British income tax is not so deducted the amount received must be returned for assessment.

(8) *Profits from Colonial and Foreign Possessions.*—AVERAGE.—The amount to be returned is the full annual amount received

in the United Kingdom on the average of the three preceding years, without any deduction.

(9) *Income from Property or Profits not falling under any of the foregoing Heads.*—Under this head fall all annual profits or gains not included under any of the foregoing heads and not charged under any other Schedule.

(10) *Date to which Profits are to be computed.*—In certain cases (see p. 2 of Form No. 11) the profits of a single year (and not the average profits of three years) are to be taken as determining the amount of income to be assessed. Where the single year is “the preceding year,” the year to be taken is, strictly speaking, the year ended on the preceding 5th April; but in practice it is usually the last calendar year, or the last year to the date at which it is the custom of the taxpayer to make up his accounts. Similarly, where the single year is “the current year,” this should in strictness be the current income tax year to 5th April following: but in practice it is usual to take the current calendar year.

(11) *Wear and Tear of Machinery and Plant.*—An allowance for diminished value of machinery and plant by reason of wear and tear may be claimed where the machinery or plant belongs to the trader, or is so let to him that he is bound to maintain and deliver it over in good condition.

Where rent is paid for the use of machinery or plant, and the burden of maintaining and restoring it falls upon the lessor, no deduction for wear and tear is allowable to the lessee.

(12) *Mode of Assessment.*—Persons assessable to income tax under Schedule D may elect to be assessed either by the Commissioners of their district under a number or letter, or by the Special Commissioners of Income Tax. In the absence of election, they will be assessed in the usual course by the Commissioners of their district.

Persons who desire to select one of the two alternatives named above should give notice to that effect in the manner provided for on p. 2 of the form No. 11.

Returns for assessment by the District Commissioners under a number or letter should be sent to the Clerk to the Commissioners, whose address will be furnished by the Assessor or Sur-

veyor of Taxes on application. Returns for assessment by the Special Commissioners should be sent to the Surveyor of Taxes under cover, marked "For Special Assessment." In other cases the form should be returned to the assessor or surveyor by whom it was issued. The form should be filled up before transmission, in all cases.

(13) *Income of Married Women.*—The income of a married woman living with her husband is, by the Income Tax Acts, deemed to be the husband's income, and should be returned by the husband on Form No. 11. The only exception to this rule is where a wife earns an income independently of her husband by the exercise of her own personal labour, and the joint income of husband and wife does not exceed £500. In such a case the profit so earned by the wife may be treated as a separate income, for the purpose of claiming exemption or abatement.

(14) *On whose behalf Return made.*—If the return is made on behalf of a firm the declarations on p. 4 of Form No. 11 should always be filled up as far as they are applicable, and if any of the individual partners desire to claim exemption, abatement, or relief allowed in respect of earned income, application should be made to the Assessor or Surveyor of Taxes for any additional forms required.

(18) *Income from Trade, Profession, Employment, or Vocation.*—(a) An individual who has made a return on p. 2 of Form No. 11 on his own behalf should first carry to p. 3 the income from this source as entered on such p. 2, less the deduction (if any) for wear and tear.

(b) A partner in a firm should first enter on p. 3 his individual share of the partnership profits, calculated as follows: From the average profits of the firm returned for assessment, the amount of any annuities, interest, and other annual charges payable for the current year, other than interest on partners' capital, should be deducted. The balance then remaining should be divided according to the terms of the partnership agreement, and the individual partner's share of that balance, for the current year, is the amount to be entered on p. 3 of Form No. 11.

When several partners desire to make claims, separate forms must be used by each.



(22) *Income from Annuities, Interest, Dividends, and Miscellaneous Sources.*—In the case of income from annuities, interest of money, or other sources not coming under any of the foregoing heads, state fully the particulars. State also in regard to each item under this head whether it has been subjected to Income Tax before receipt.

(23) *Charges on Income.*—Particulars must be given in space No. 2 on p. 3 of Form No. 11 of all deductions from the income, such as ground rent, interest on mortgage or loan (whether secured on property, life insurance policy, reversion, or otherwise), annuities, patent royalties, or other annual payments, but excluding life assurance premiums, which should be entered in Claim (C) on p. 2. If there are no such deductions the word "none" should be inserted. It is not sufficient to leave the space blank.

### Duties on Liquor Licences

The duties to be paid on licences for the manufacture and sale of intoxicating liquor have been greatly increased by Part II. of the Finance (1909-10) Act, 1910. The old duty for seven-day beerhouse licences was £3. 10s., and for licensed victuallers as follows:—

#### OLD LICENCE DUTIES

Of annual value of under	£10	-	-	-	£	s.
" £10 and under	15	-	-	-	4	10
" 15 "	20	-	-	-	6	0
" 20 "	25	-	-	-	8	0
" 25 "	30	-	-	-	11	0
" 30 "	40	-	-	-	14	0
" 40 "	50	-	-	-	17	0
" 50 "	100	-	-	-	20	0
" 100 "	200	-	-	-	25	0
" 200 "	300	-	-	-	30	0
" 300 "	400	-	-	-	35	0
" 400 "	500	-	-	-	40	0
" 500 "	600	-	-	-	45	0
" 600 "	700	-	-	-	50	0
" 700 and over	-	-	-	-	55	0
					60	0

The new licence duties are set out in the first schedule to the Act, and are as follows:—

## RETAILERS' LICENCES

I.—*On-Licences*

Licence to be taken out annually by a retailer of	Duty.	Corresponding existing Licence.
1. Spirits (publican's licence)	A duty equal to half the annual value of the licensed premises, subject to the minimum duty payable under Scale 3	Licence on which duty is payable under 43 & 44 Vict., c. 20, s. 43 (1). Licence on which duty is payable under 43 & 44 Vict., c. 20, s. 41.
2. Beer (beer house licence)	A duty equal to a third of the annual value of the licensed premises, subject to the minimum duty payable under Scale 3	
3. Cider. - -	Half the duty specified in Scale 4	
4. Wine - -	Duty specified in Scale 4 - -	
5. Sweets - -	Half the duty specified in Scale 4	

Annual value is gross value for inhabited house duty (see sec. 8 of the Revenue Act, 1911.

SCALE 3. MINIMUM DUTY PAYABLE FOR PUBLICAN'S  
AND BEER HOUSE LICENCES

There shall be a minimum duty payable on the publican's licence and the beer house licence respectively, as shown in the following scale, and where the annual value of any licensed premises is less than the annual value to which the minimum duty corresponds, duty shall be charged as if the premises were of that annual value.

Population.	Minimum Duty.	
	Publican's Licence.	Beer House Licence.
In Great Britain—	£ s.	£ s.
In areas which are not urban areas, and in urban areas with a population of less than 2,000 -	5 0	3 10
In urban areas with a population of—		
2,000 and less than 5,000 - - -	10 0	6 10
5,000 „ „ 10,000 - - -	15 0	10 0
10,000 „ „ 50,000 - - -	20 0	13 0
50,000 „ „ 100,000 - - -	30 0	20 0
100,000 or above - - -	35 0	23 10
In Ireland—		
In areas which are not urban areas, and in urban areas with a population of less than 10,000 -	5 0	3 10
In urban areas with a population of 10,000 or above	7 10	4 0

For the purposes of this scale an urban area means any county borough, borough, or other urban district; and the administrative county of London shall be deemed to be a single urban area; and population shall be calculated according to the last published census for the time being. The boroughs of Burslem, Hanley, Longton, and Stoke-upon-Trent, and the urban districts of Fenton and Tunstall, which, in pursuance of the Borough of Stoke-on-Trent Order, 1908, as confirmed by the Local Government Board's Provisional Order Confirmation (No. 3) Act, 1908, are, as from the thirty-first day of March nineteen hundred and ten, to form (subject to certain provisions as to differential rating and other matters to have effect for a period of twenty years) one borough to be called the borough of Stoke-upon-Trent, shall, notwithstanding anything contained in that order, continue for the period of twenty years from the said date to be separate urban areas for the purposes of this scale.

## SCALE 4. WINE RETAILER'S ON-LICENCE

Annual value of licensed premises—		Duty.
Under £30	- - - - -	£4 10 0
£30 and under £50	- - - - -	6 0 0
£50 " " £100	- - - - -	9 0 0
£100 and over	- - - - -	12 0 0

II.—*Off-Licences*

Licence to be taken out annually by retailer of	Duty.	Corresponding existing Licence.
1. Spirits -	Duty specified in Scale 5.	As respects England, the additional retail licence on which duty is payable under 24 & 25 Vict., c. 21, s. 1. As respects Scotland, licence on which duty is payable under 16 & 17 Vict., c. 67, s. 8. As respects Ireland, licence on which duty is payable under 6 Geo. 4, c. 81, s. 2, and 8 and 9 Vict., c. 64, s. 1. Additional liqueur licence on which duty is payable under 11 & 12 Vict., c. 121, s. 10.
2. Beer -	Duty specified in Scale 6.	As respects England, the beer retailer's licence and the additional beer dealer's retail licence on which duty is payable under 43 and 44 Vict., c. 20, s. 41. As respects Scotland, licence on which duty is payable under 16 & 17 Vict., c. 67, s. 8. As respects Ireland, dealer's additional retail licence on which duty is payable under 43 & 44 Vict., c. 20, s. 41.

II.—*Off-Licences*—continued

Licence to be taken out annually by retailer of	Duty.	Corresponding existing Licence.
3. Cider -	£2 - -	Licence on which duty is payable under 43 & 44 Vict., c. 20, s. 41.
4. Wine -	Duty specified in Scale 7.	As respects England and Ireland, licence on which duty is payable under 43 & 44 Vict., c. 20, s. 41. As respects Scotland, licence on which duty is payable under 39 & 40 Vict., c. 16, s. 4. Licence as a dealer in wine, on which duty is payable under 6 Geo. 4, c. 81, s. 2, so far as such a licence authorises sale by retail.
5. Sweets -	£2 - -	Licence on which duty is payable under 43 & 44 Vict., c. 20, s. 41.

## SCALE 5. SPIRIT RETAILER'S OFF-LICENCE

Annual value of licensed premises—

Duty.

Not exceeding £10 - - - - -	£1 0 0
Exceeding £10 and not exceeding £20 - - - - -	11 10 0
"      20      "      "      30 - - - - -	14 0 0
"      30      "      "      50 - - - - -	15 0 0
"      50      "      "      75 - - - - -	16 0 0
"      75      "      "      100 - - - - -	17 10 0
"      100      "      "      250 - - - - -	19 0 0
"      250      "      "      500 - - - - -	30 0 0
"      500 - - - - -	50 0 0

## SCALE 6. BEER RETAILER'S OFF-LICENCE

Annual value of licensed premises—

Duty.

Not exceeding £10 - - - - -	£1 10 0
Exceeding £10 and not exceeding £20 - - - - -	2 0 0
"      20      "      "      30 - - - - -	2 10 0
"      30      "      "      50 - - - - -	3 0 0
"      50      "      "      75 - - - - -	3 10 0
"      75      "      "      100 - - - - -	4 0 0
"      100      "      "      250 - - - - -	4 10 0
"      250      "      "      500 - - - - -	7 0 0
"      500 - - - - -	10 0 0

## SCALE 7. WINE RETAILER'S OFF-LICENCE

Annual value of licensed premises—

Duty.

Not exceeding £20	-	-	-	-	-	-	-	£2	10	0
Exceeding £20 but not exceeding £30	-	-	-	-	-	-	-	3	0	0
„ 30	„	„	50	-	-	-	-	3	10	0
„ 50	„	„	75	-	-	-	-	4	0	0
„ 75	„	„	100	-	-	-	-	4	10	0
„ 100	„	„	250	-	-	-	-	5	0	0
„ 250	„	„	500	-	-	-	-	7	0	0
„ 500	-	-	-	-	-	-	-	10	0	0

**Option to pay Duty in accordance with Annual Compensation Value.**—Sec. 3 of the schedule provides as follows :—

3. Where it is shown to the satisfaction of the Commissioners that the annual value of the premises exceeds five hundred pounds, a retailer's on-licence may be granted at the option of the licence holder on payment of an amount equal to one-third of the annual licence value as certified for the purposes of this Act, and where that amount has not been certified for the purpose of the register to be prepared under this Act, the licence holder may require that amount to be so certified :

Provided that—

- (a) the duty payable in pursuance of this provision shall not be less than two hundred and fifty pounds in the case of fully-licensed premises, or in the case of a beer house one hundred and sixty-six pounds thirteen shillings and fourpence ; and
- (b) where the annual licence value has not been certified, the licence shall be granted on a provisional payment of the minimum duty payable under this provision, or of one-fifth of the full duty, whichever is the higher, and, upon the annual licence value being certified, the duty shall be adjusted by the return of any over-payment or by the recovery, as a debt to His Majesty, of any sum by which the amount paid falls short of the amount which is found to be payable.

This provision shall apply to premises, whatever their annual value, if they are structurally adapted for use as an hotel and are *bona fide* so used, and it is shown to the Commissioners that it is impracticable to obtain a reduction of duty in respect of the premises under the provisions of this Act enabling such a reduction to be

obtained for hotels in certain cases, owing to the fact that visitors resort to the place where the premises are situated only during certain seasons of the year. In such a case, the minimum amount of duty payable shall instead of two hundred and fifty pounds be thirty pounds in the case of premises of an annual value not exceeding one hundred pounds, and in any other such case fifty pounds.

The question of the extent to which these increased charges will depreciate the value of licensed premises cannot be well estimated until it is shown by experience to what extent the burden can be shifted on to the shoulders of the consumer by means of increased prices.

**Gross and Rateable Value.**—The immediate effect, however, is largely to decrease the value of these premises, and it has been held by the Court of Appeal in the case of the Crown and Shuttle Public House, Shoreditch, that the occupiers are entitled to a reduction in their assessments by provisional valuation lists. The decrease will not, however, be the whole difference in the licence duty. The old gross value, licence duty, and rates and taxes must be added together and the total reapportioned as in the following example. No account need be taken of compensation charge, although this may be reduced by virtue of sec. 47 of the Act, as this has been held not to affect gross and rateable value.

Old gross value	-	-	-	-	-	-	£150	0	0
Full licence thereon	-	-	-	-	-	-	30	0	0
Rates at say 6s. 8d. on rateable value of £125							41	13	4
Water rate at 1s. in the £ on the same rateable value	-	-	-	-	-	-	6	5	0
Inhabited house duty, 6d. in the £ on £150							3	15	0
							<hr/>		
							£231	13	4

Rates and water, 7s. 8d. in	s.	d.		
£ on rateable value	=	6	$4\frac{2}{3}$	in £ on gross value.
Inhabited house duty	-	0	6	„ „
New licence duty	-	-	10	0 „ „
<hr/>				
16 10 $\frac{2}{3}$ say 17s.				

The new gross value, therefore, should be—

$$\frac{20}{37} \times £231. 13s. 4d. = £125.$$

To prove this, add the new licence duty, rates, etc.—

New gross value - - - - -	£125	0	0
Full licence thereon - - - - -	62	10	0
Rates at 6s. 8d. in £ on rateable value of			
£105 - - - - -	35	0	0
Water rate at 1s. in £ on rateable value of			
£105 - - - - -	5	5	0
Inhabited house duty, 6d. in £ on £125 -	3	2	6
	<hr/>		
	£230	17	6
	<hr/>		

The small difference in the total is accounted for by keeping to whole pound values for gross and rateable value.

**Annual Licence Value.**—Sec. 44 directs that the Commissioners shall prepare and keep corrected a register showing the annual licence value of all fully licensed premises and all beer houses. Annual licence value is the difference between the annual value of the premises licensed and that of the premises without a licence, the values to be the same as in the case of compensation payable under the Act of 1904, but no allowance is to be made for depreciation of trade fixtures. The basis for compensation is fully explained in Chapter X.

It is not clear whether sec. 8 of the Finance Act, 1911, modifies the second paragraph of sec. 44 (2) of the Finance (1909-10) Act, 1910, so as to enact that the annual value licensed shall be the inhabited house duty value.

#### **Licence Duty payable by Landlord of Tied House.—**

Sec. 46 directs that where a house is tied to the brewer or distiller the tenant may recover from the brewer or distiller so much of any increase of the duty payable in respect of the licence as may be agreed upon, or in default of agreement determined by the Commissioners to be proportionate to any increased rent of the premises or increased prices of intoxicating liquor supplied, or other benefit obtained by the brewer or distiller by reason of the tie.

**Licence Duty payable by Landlord of Free House.—**

Sec. 2 of the Finance Act, 1912, provides that where licensed premises are held under a lease made before 29th April 1910, which does not contain any covenant for obtaining intoxicating liquors from the lessor, notwithstanding any covenant to the contrary, the lessee can deduct from rent or recover from the lessor so much of the increased duty under the Finance (1909-10) Act, 1910, as may be agreed upon or determined by the County Court as shall be proportionate to any increased rent or premium payable in respect of the premises being let as licensed premises.

**Death Duties**

It is not possible to go at length into the question of liability for payment of death duties, as to what property is deemed to pass; the question of aggregation, etc. With regard to valuation, however, sec. 7 (5) of the Finance Act, 1894, provides that the principal value of any property shall be estimated to be the price which, in the opinion of the Commissioners of Inland Revenue, such property would fetch if sold in the open market at the time of the death of the deceased. This sub-section made a reservation that the principal value of agricultural property shall not exceed twenty-five times the assessment to Schedule A after deducting cost of maintenance and management, but this was removed by sec. 60 of the Finance (1909-10) Act, 1910, except for estates under £1,000. This section also provides that :—

(2) In estimating the principal value of any property under sub-sec. (5) of sec. 7 of the principal Act, in the case of any person dying on or after the thirtieth day of April 1909, the Commissioners shall fix the price of the property according to the market price at the time of the death of the deceased, and shall not make any reduction in the estimate on account of the estimate being made on the assumption that the whole property is to be placed on the market at one and the same time.

Provided that where it is proved to the Commissioners that the value of the property has been depreciated by reason of the death of the deceased, the Commissioners in fixing the price shall take such depreciation into account.



If the estate includes land on which timber, trees, or wood are growing, the value of these is not taken into account for aggregation purposes, and estate duty is only paid when the timber is felled and sold, and then cost of maintenance, etc., is deductible (sec. 9, Finance Act, 1912).

When increment value duty is payable upon the occasion of the death, the amount of the duty is deductible from the value of the estate as if it were a debt.

### **Valuation of Cottages for Purposes of Estate Duty.—**

Sec. 18 of the Finance Act, 1911, provides as follows:—

18. It is hereby declared that, in estimating for the purposes of sub-section (5) of section 7 of the Finance Act, 1894, the principal value of any agricultural property which comprises cottages occupied by persons employed solely for agricultural purposes in connection with the property, no account shall be taken of any value attributable to the fact that the cottage is suitable for the residential purposes of any persons other than agricultural labourers or workmen on the estate.

In the case of a person dying after 30th April 1909, any property included in a disposition purporting to operate as an immediate gift *inter vivos*, which has been made within three years of the death of the deceased, is included in the property passing on the death, and has to be included in the valuation.

Any appeal against the values fixed by the Commissioners is to be made to referees, etc., in the same way as appeals under Part I. of the Finance (1909-10) Act, 1910.

Estate duty is payable with certain exceptions upon the principal value of all property, real and personal, passing on death, the rates being as shown over leaf.

Where the total value does not exceed £300, a fixed duty of 30s. may be paid, and where it does not exceed £500, a fixed duty of 50s. may be paid instead of the rate shown on next page, at the option of the accounting party.

Settlement estate duty at the rate of 2 per cent. is also payable where property liable to estate duty is settled, and legacy and succession duty are also payable upon legacies, the rate varying with the degree of consanguinity. Where the net value of the property does not exceed £1,000, estate duty only is payable.

## SECOND SCHEDULE TO FINANCE (1909-10) ACT, 1910

*Scale of Rates of Estate Duty*

Where the principal value of the estate

Exceeds £100 and does not exceed £500, at 1 per cent.

„	500	„	„	1,000	2	„
„	1,000	„	„	5,000	3	„
„	5,000	„	„	10,000	4	„
„	10,000	„	„	20,000	5	„
„	20,000	„	„	40,000	6	„
„	40,000	„	„	70,000	7	„
„	70,000	„	„	100,000	8	„
„	100,000	„	„	150,000	9	„
„	150,000	„	„	200,000	10	„
„	200,000	„	„	400,000	11	„
„	400,000	„	„	600,000	12	„
„	600,000	„	„	800,000	13	„
„	800,000	„	„	1,000,000	14	„
„	1,000,000	-	-	-	15	„

## CHAPTER XIV

### VALUATION FOR TAXATION (*Continued*)

#### Land Values Duties

PART I. of the Finance (1909-10) Act, 1910, imposes four taxes, viz., increment value duty, reversion duty, undeveloped land duty, and mineral rights duty, which are all new to our fiscal system and based upon new principles of valuation. The text of this part of the Act is given in full on pp. 257-296, followed by amending sections in the Revenue Act, 1911, Finance Act, 1911, and Finance Act, 1912.

This chapter is divided as follows: 1. Increment value duty. 2. Reversion duty. 3. Undeveloped land duty. 4. Valuation in connection with the duties and appeals against these valuations. 5. Mineral rights duty and increment value and reversion duties on minerals.

Numerous examples are given illustrating the points in the Act and further examples are added at the end of the chapter.

**Definitions.**—The reader will do well, before reading this chapter, to carefully study the definitions given in sec. 41 of the Act (see pp. 292-294).

#### Increment Value Duty

**Basis of Increment Value Duty.**—Increment value duty is imposed by sec. 1 subject to the provisions of secs. 2 to 12.

The duty is levied at the rate of one pound in every complete five pounds upon the increment value of land, which is the excess of the site value of the land, on the occasion when the tax is to

be collected, over the original assessable site value of the land as on 30th April 1909.

**When payable.**—The duty (or proportionate part of the duty so far as it has not been paid or deemed to be paid on any previous occasion) is levied upon certain occasions, described in three groups in sec. 1 (a), (b), and (c). Briefly, they are as follows:—

(a) Transfer on sale of the fee simple or any interest (defined in sec. 41) in the land, or the grant of a lease for a term exceeding fourteen years; the contract for the sale or lease being made after 29th April 1910.

It should be noticed that a chief-rent or other rent-charge is not an interest in land as defined by the Act, and consequently a sale of a rent-charge is not an occasion for payment of increment value duty.

(b) Death of any person after 29th April 1910, when the fee simple or any interest in the land is deemed for the purposes of estate duty to be property passing on the death of the deceased.

(c) Where the fee simple or any interest in the land is held by any body corporate or unincorporate in such a manner that it cannot become liable to death duties, the duty is leviable on 5th April 1914 and 5th April in every subsequent fifteenth year (sec. 60).

Bodies corporate or unincorporate will also be liable to the duty under sub-sec. (a) if they sell or lease the property.

Sec. 6 (3) provides that where increment value duty is payable by a body corporate or unincorporate under sec. 1 (c) it may be paid by fifteen yearly instalments, any balance being payable at any time. Any duty assessed under this provision is for the purpose of determining any increment duty to be collected on any subsequent occasion to be deemed to be paid.

The duty is only levied on any of the above occasions in so far as it has not been paid or deemed to be paid on any previous occasion; and where the interest is less than the fee simple, only a proportion is levied corresponding to the proportion which the value of the interest bears to that of the fee simple (see Rules made by the Commissioners of Inland Revenue, p. 310-312).

**Increment Value Duty deemed to be paid.**—No duty is deemed to be paid unless the instrument of transfer or lease is stamped in accordance with sec. 4 (3) with a stamp denoting that either (a) the duty assessed has been paid, (b) all necessary particulars have been delivered to the Commissioners and security has been given for payment of the duty if the Commissioners required security, or (c) no duty was payable upon the occasion in question.

Sec. 3 (5) provides that for calculating the amount payable, the site value at the time the duty is to be collected shall be reduced on the first occasion for the collection of the duty by 10 per cent. of the original site value, and on every subsequent occasion by 10 per cent. of the site value on the last preceding occasion for the collection of the duty. The amount by which the duty is reduced in accordance with this provision shall be remitted, but shall be deemed to have been paid, provided that no remission shall be given under this section which would make the amount of increment value on which duty has been remitted during the last five years exceed 25 per cent. of the site value of the land on the last occasion for the collection of increment value duty prior to the commencement of that period, or of the original site value if there has been no such occasion.

To illustrate this point, suppose the site value of a freehold plot of land in 1909 was £1,000; in 1912 the property was purchased by A. B. and duty became payable, the site value being £1,500; in 1914 duty became again payable owing to the death of A. B., the site value being £1,650; in 1915 the executors sold the property to C. D. and duty became again payable, the value being £1,800; and in 1918 C. D. died and duty became payable, the value being £2,100. The amount upon which duty would be payable and subject to remission is shown below—

			Increment value.	Duty remitted on	Duty payable on
Original site value - - -	1909	£1,000	...	...	...
Site value - - -	1912	1,500	£500	£100	£400
" " - - -	1914	1,650	150	150	Nil
" " - - -	1915	1,800	150	Nil	150
" " - - -	1918	2,100	300	180	120

In 1915 no duty is remitted, as it would make the allowance exceed 25 per cent. of the original site value.

**Exemption from the Duty.**—In the following cases the land is exempt whilst held as below, but without prejudice to any future payments if the land ceases to be so held :—

(a) Agricultural land while that land has no higher value than its value for agricultural purposes only *if sold at the time in the open market*: Provided that any value of the land for sporting purposes, or for other purposes dependent upon its use as agricultural land, shall be treated as value for agricultural purposes only, except where the value for any such purpose exceeds the agricultural value of the land (sec. 7).

Agriculture is defined in sec. 41. It will be well to illustrate this section with some examples—

(i) Value for agricultural purposes, £200; value of sporting rights, £200. This land is exempt. Value for sporting rights, £250. Duty assessable in ordinary way.

(ii) Value for agricultural purposes, £200; sporting rights, £200. Value for building purposes, £250. Exemption applies.

(iii) Value for agricultural purposes, £200; sporting rights, £250. Value for building purposes, £250. No exemption.

Sporting should probably be defined as in the Rating Act, 1874, and does not include a racecourse.

(b) Land held by any body corporate or unincorporate without any view to the payment of any dividend or profit out of the revenue thereof, *bona fide* for the purpose of games or other recreation, if the Commissioners are satisfied that the land is so used under some agreement with the owner which as originally made could not be determined for a period of at least five years, or under other circumstances which render it probable that the land will continue to be so used (sec. 9).

(c) In the case of buildings used for the purpose of separate tenements, flats, or dwellings, the grant, transfer on sale, or passing on death of a lease of any such separate tenement, flat, or dwelling. A leasehold interest in any such tenement, flat, or dwelling held by a body corporate or unincorporate (sec. 11).

(d) Land held by a governing body constituted for charitable purposes, whether occupied and used by that body or not, includ-

ing universities, colleges, schools, and other institutions for the promotion of literature, science, or art (sec. 37 (1)).

(e) Land held by statutory companies and used for the purposes of their undertaking (sec. 38).

The following sections provide for exemptions, and also that duty which would otherwise have been payable shall be deemed to be paid :—

(f) First 10 per cent. of previous value (see p. 223).

(g) Where reversion duty has been paid in respect of the same benefit the payment also exonerates increment value duty to the extent of the reversion duty paid (sec. 14 (4)).

(h) Small houses in the owner's occupation for previous twelve months and of annual value for Schedule A, not exceeding £40 in London, £26 in boroughs and urban districts of population over 50,000 according to the last published census for the time being, and £16 elsewhere (sec. 8 (1)).

(i) Agricultural land occupied by the owner where the whole holding does not exceed fifty acres, and the average total value of the land does not exceed £75 per acre, and the annual value for Income Tax (Schedule A) of any dwelling-house held with the land does not exceed £30 (sec. 8 (2)).

(j) Land held by His Majesty or any Government department (sec. 10 (1)).

(k) Land held by rating authorities (sec. 35 (1)). The definition of rating authority (sec. 35 (2)) is very wide.

(l) Any capital sum or instalment of a capital sum paid to any rating authority in respect of "betterment" due to improvements made by the local authority is to be deducted from the increment value of the land, and the duty on the amount deducted shall be deemed to have been paid (sec. 36). The words "capital sum or instalment of a capital sum" are important. Thus, in the case of the London County Council (Tower Bridge Southern Approach) Act, 1895, and the London County Council (Improvements) Acts, 1897 and 1899, the betterment charge is a rate of 3 per cent. upon half the increased capital value, and payments under the provisions of these Acts would apparently not come under the exemption.

On the other hand, the Housing, Town Planning, etc., Act,

1909 (sec. 58 (3)), provides that under certain conditions the local authority may recover from the owner one-half of any increased value due to working under the Act. Payment under this Act would certainly come within sec. 36 of the Finance Act.

(*m*) Land held by friendly societies, clubs, trade unions, etc., who are registered or whose rules are registered or certified by the Registrar of Friendly Societies under sec. 8 (1) of the Friendly Societies Act, 1896, and where the contract between the society and its members is of a permanent character (sec. 37 (2)).

**Original Site Value and Substituted Site Value for Increment Value Duty.**—The original site value is fixed once for all by means of the general valuation made under sec. 26 of the Act, according to the definitions under sec. 25, which are dealt with on pp. 239 *et seq.*, but for the purposes of increment value duty only sec. 2 (3) provides as follows :—

3. Where it is proved to the Commissioners on an application made for the purpose within the time fixed by this section that the site value of any land at the time of any transfer on sale of the fee simple of the land or of any interest in the land, which took place at any time within twenty years before the thirtieth day of April nineteen hundred and nine, exceeded the original site value of the land as ascertained under this Act, the site value at that time shall be substituted, for the purposes of increment value duty, for the original site value as so ascertained, and the provisions of this Part of this Act shall apply accordingly.

Site value shall be estimated for the purposes of this provision by reference to the consideration given on the transfer in the same manner as it is estimated by reference to the consideration given on a transfer where increment value duty is to be collected on the occasion of such a transfer after the passing of this Act.

This provision shall apply to a mortgage of the fee simple of the land or any interest in land in the same manner as it applies to a transfer, with the substitution of the amount secured by the mortgage for the consideration.

An application for the purpose of this section must be made within three months after the original site value of the land has been finally settled under this Part of this Act.

This provision has been extended by sec. 2 of the Revenue Act, 1911, to any transfer or sale which took place twenty years or more before 30th April 1909, "and which was a transfer to the person



who is the owner of the land or any interest in the land at the time when an application is made under that provision."

No mention is made in the 1911 Act of mortgages, and the Finance Act, 1912, again amends the provision to include transfers in the year 1909-10.

Where the provisional valuation was made at the time of the passing of the 1911 Act, the owner was restricted to three months from the date of the Act in which to make application.

For the meaning of the words "finally settled," see p. 238.

It will be observed that the original site value as determined under sec. 25 still stands, but where a site value is substituted under sec. 2 (3) this takes the place of the original site value for the purposes of ascertaining increment value. A substituted site value can be based on the price paid any time before 30th April 1910, by the person who is the owner when the application is made or on the price paid by any person, or mortgages obtained by any person within twenty-one years prior to 30th April 1910.

The substituted site value is to be calculated in the same way as site value on an occasion for increment value duty (see next paragraph).

**Site Value on the occasion on which Increment Value Duty is to be collected.**—This value is to be arrived at in accordance with sec. 2 (2).

(2) The site value of the land on the occasion on which increment value duty is to be collected shall be taken to be—

- (a) where the occasion is a transfer on sale of the fee simple of the land, the value of the consideration for the transfer ; and
- (b) where the occasion is the grant of any lease of the land, or the transfer on sale of any interest in the land, the value of the fee simple of the land, calculated on the basis of the value of the consideration for the grant of the lease or the transfer of the interest ; and
- (c) where the occasion is the death of any person and the fee simple of the land is property passing on that death, the principal value of the land as ascertained for the purposes of Part I. of the Finance Act, 1894, and where any interest of the land is property passing on that death the value of the fee simple of the land calculated on the basis of the principal values of the interests as so ascertained ; and

(d) where the occasion is a periodical occasion on which the duty is to be collected in respect of the fee simple of any land or of any interest in any land held by a body corporate or unincorporate, the total value of the land on that occasion to be estimated in accordance with the general provisions of this Part of this Act as to valuation ;

subject in each case to the like deductions as are made, under the general provisions of this Part of this Act as to valuation, for the purposes of arriving at the site value of land from the total value.

It is important to note that any deduction which could have been made but was not claimed for the purpose of ascertaining the original site value, cannot be claimed for the purpose of ascertaining the site value on any occasion when increment value duty becomes payable (sec. 12).

A Parliamentary White Paper (238 of 1911) has been published, which gives the instructions of the Board of Inland Revenue to valuers on the method in which site value on "occasions" is to be ascertained. This is as follows :—

#### FINANCE (1909-10) ACT, 1910

##### *Ascertainment of Site Value on "Occasions"*

*Firstly*—Ascertain the value of the fee simple on the basis of the value of the consideration in accordance with section 2 of the Act.

*Secondly*—By an independent calculation and without necessarily being bound by the actual consideration paid, ascertain the gross value *at the time, i.e.*, on the occasion, in accordance with the definition contained in sub-section (1) section 25.

*Thirdly*—As an independent calculation and without necessarily being bound by the actual consideration ascertain the full site value *at the time* as defined in sub-section (2) section 25.

The difference between these two figures ascertained under sub-sections (1) and (2) of section 25 respectively will then give the amount of the first deduction to be made in accordance with the provisions of sub-section (4) of section 25.

Any other site value deductions must of course also be made.

By this method the following results should be achieved :—

1. The transferrer will not be called upon to pay increment value duty in respect of any recovery in the value of buildings.

2. Increment value duty would be collectible in all cases where there has been either—

(a) an increase in the value of the site as compared with the original site value ; or

(b) the unit of valuation (or an interest therein) has actually been sold for more than it is worth at the time.

**Collection of Duty.**—This subject, which is one principally for the solicitor, is dealt with in secs. 3 to 6. The duty is to be levied, by means of a stamp upon the conveyance or other instrument, and regulations have been issued by the Commissioners under sec. 4.

**Agreement by Purchaser or Lessee to pay Duty is Void.**—The duty is payable by the transferrer, on a sale of the fee simple or other interest, and by the lessor, on the grant of a lease, and sec. 1 of the Revenue Act, 1911, provides that any agreement for the purchaser or lessee to pay the duty or expenses of assessment or in any way to reimburse or repay the vendor or lessor such sums shall be void.

### Reversion Duty

**When Reversion Duty is Payable.**—This duty is levied under sec. 13 of the Act, subject to the provisions of secs. 14 and 15. Sec. 13 (1) provides as follows :—

13.—(1) On the determination of any lease of land there shall be charged, levied, and paid, subject to the provisions of this Part of this Act, on the value of the benefit accruing to the lessor by reason of the determination of the lease a duty, called reversion duty, at the rate of one pound for every complete ten pounds of that value.

The term lease is defined in sec. 41 as including an underlease and an agreement for a lease or underlease, but excluding a term of years created solely for the purpose of securing money until the term becomes vested in some person free from any equity of redemption. Where the lease contains an obligation to renew, it

is deemed to include the period for which it may be renewed. In the case of a lease for life or lives, it is deemed to be for a number of years equal to the mean expectation of life of the person or youngest person for whose life it is granted.

The latter part of this definition, it will be seen, is not actuarially correct. Thus in the case of a lease for the longest of lives aged 15, 25, 45, the expectation of life for the three lives is about 42 years, whereas the expectation of the person aged 15 is 36.51 years. The rule in the definition ignores the possibility of the person aged 25 or 45 surviving the one aged 15.

In the case of leases dependant upon lives the Northampton tables are to be used (see statutory rules, p. 310).

**Persons to whom benefit accrues.**—The duty is payable by the person to whom the benefit accrues, *i.e.*, the lessor, and by sec. 3 (1) of the Revenue Act, 1911, where the lessor sells his interest immediately upon the expiration of the term, or where the lessee purchases the reversion and the lease determines by merger, the duty will be payable by the vendor.

The duty in the latter case is modified by sec. 3 (2), see (*m*) on next page.

**Exemptions from the Duty.**—The Crown not being expressly mentioned is exempt. The following exemptions are also provided by the Act :—

(a) On reversion to leases purchased before 30th April 1909, where such lease determines within 40 years of date of purchase. This does not apply where the determination of the lease is effected by agreement between the parties, and would not determine under the lease without such agreement (sec. 14 (1)).

(b) Land which at the determination of the lease is agricultural land (sec. 14 (2)).

(c) Where the original term of the lease did not exceed 21 years, or where the interest of the lessor expectant on the determination of the lease is itself a lease not exceeding 21 years (sec. 14 (2)).

(d) Where increment value duty has been paid on the same benefit, the payment shall also exonerate the reversion duty to the extent of the increment value duty paid (sec. 14 (4)).

(*e*) In case of reversion mortgaged before 30th April 1909, and mortgagee forecloses before the lease determines, the duty is not to be assessed on a sum greater than the excess of the total value at the time of foreclosure over the sum due under the mortgage (sec. 14 (5)).

(*f*) Land held by rating authorities (sec. 35).

(*g*) Any capital sum or instalment of a capital sum paid to a local authority in respect of "betterment" is to be deducted from the value of the benefit accruing to the lessor (sec. 36). This provision is discussed under increment duty (see p. 225).

(*h*) Land held by governing body constituted for charitable purposes, including universities, colleges, schools, and other institutions for the promotion of literature, science, and art (sec. 37 (1)).

(*i*) Land held by friendly societies, clubs, trade unions, etc. (sec. 37 (2)).

(*j*) Land held by statutory companies and used for the purposes of their undertaking (sec. 38).

(*k*) On determination of lease by merger where lessee acquires lessor's interest, if the lease has at least 50 years to run, and the total value does not exceed £500 (Revenue Act, 1911, sec. 3 (3)).

(*l*) Where a lease is held upon trust for a body of persons and the lease is surrendered upon condition that the lessor shall grant leases to the several persons, comprising the whole of the land, and at rents equal in aggregate to the rent previously received and to expire at the date of the original lease (Revenue Act, 1911, sec. 3 (4)).

(*m*) Where a lease, before or after the 1911 Act, determines on the merger of the lessor's and lessee's interests before the term for which the lease was granted has expired the reversion duty (if any) payable shall not be the full duty but the present value of this sum deferred at four per cent. for the residue of the term (Revenue Act, 1911, sec. 3 (2)).

**Assessment of Reversion Duty.**—The duty is to be levied upon the value of the benefit accruing to the lessor, which is the amount by which the total value (as on the date of the determination of the lease) as defined in sec. 25, less any part of the total value due to any works executed by the lessor during the

term of the lease and of any compensation payable by him at the determination of the lease, is in excess of the total value at the time of the original grant of the lease, to be ascertained on the basis of the rent reserved, and payments made in consideration of the lease (including, in cases where a nominal rent has been reserved, the value of any covenant or undertaking to erect buildings or to expend money on the property). Where the lessor is himself only entitled to a leasehold interest, the duty is to be paid on the proportion which the value of his interest bears to that of the fee simple.

The statutory rules (see p. 310) define proper proportion as the ratio of the present value of an annuity for the term of the interest to the present value of the same annuity in perpetuity, the calculations to be based on the four per cent. tables.

### *Example*

A plot of land was let in 1822 on a building lease for 99 years at £5 per annum, and a house was built upon it. The lease was surrendered in 1912 for a new lease for 99 years at £12 per annum. The gross value of the premises in 1912 was £250. There are no charges, etc., to be deducted between gross value and total value. The lessor expended no money on the property during the term of the lease and paid no compensation at the determination of the lease.

Total value at determination of lease	-	-	-	£250
Total value at commencement of lease, £5 × 25 Y.P.				125
				<hr/>
Value of benefit accruing to lessor				<u>£125</u>
Duty at the rate of £1 for every complete £10 of				
benefit accruing	-	-	-	<u>£12</u>

By sec. 3 (2) of the Revenue Act the full duty is not to be collected, but £12 deferred 9 years on the 4 per cent. tables ( $£12 \times .703 = £8. 8s. 8d.$ ).

**Recovery of Reversion Duty.**—The recovery of the duty is provided for in sec. 15 as follows;—

15.—(1) Reversion duty shall be recoverable from any lessor to whom any benefit accrues from the determination of a lease as a debt due to His Majesty, but shall rank *pari passu* with all other debts due from such lessor.

(2) Every lessor shall, on the determination of a lease on the determination of which reversion duty is payable under this section, deliver an account to the Commissioners setting forth the particulars of the land and the estimated value of the benefit accruing to the lessor by the determination of the lease.

(3) If any person who is under an obligation to deliver an account under this section knowingly fails to deliver such an account within the period of three months after the determination of the lease, he shall be liable to pay to His Majesty a sum not exceeding ten per cent. upon the amount of any duty payable under this section, and a like penalty for every three months after the first month during which the failure continues.

(4) Section 17 of the Customs and Inland Revenue Act, 1885 (which relates to the power to assess duty according to accounts rendered, and to obtain other accounts), shall apply with respect to any account delivered under this section (with the exception of any provisions relating to appeals).

See also sec. 3 of the Revenue Act, 1911, for the definition of the person deemed to be the lessor in particular cases.

### Undeveloped Land Duty

Section 16 imposes a duty of one halfpenny in the pound on the site value of undeveloped land.

**Undeveloped Land Defined.**—The definition of undeveloped land is given in sec. 16 (2) as follows:—

(2) For the purposes of this Part of this Act land shall be deemed to be undeveloped land if it has not been developed by the erection of dwelling-houses or of buildings for the purposes of any business, trade, or industry, other than agriculture (but including glasshouses or greenhouses), or is not otherwise used *bona fide* for any business, trade, or industry other than agriculture.

Where land having been developed reverts to the condition of undeveloped land owing to the buildings becoming derelict or the land ceasing to be used for any business, etc., it shall be treated as undeveloped after the lapse of one year of the buildings becoming derelict, etc.

**Exemptions from Undeveloped Land Duty.**—By secs. 17 and 18 it is provided that undeveloped land duty shall not be charged in respect of—

- (a) Land where the site value does not exceed £50 per acre.
- (b) In the case of agricultural land, where the value exceeds £50 per acre, the duty is only to be levied on the amount by which the site value exceeds the value of the land for agricultural purposes. —
- (c) Parks, gardens, or open spaces open to the public as of right.
- (d) Woodlands, parks, gardens, or open spaces to which reasonable access is enjoyed by the public or the inhabitants of the locality, where in the opinion of the Commissioners that access is of public benefit.
- (e) Land kept free of buildings in pursuance of a definite scheme for the development of the area of which the land forms part, and where in the opinion of the Commissioners it is reasonably necessary in the interests of the public or in view of the surroundings or neighbourhood that the land should be so kept free of buildings.

Where such land has received the benefit of exemption from the duty, it may not be built upon unless the Local Government Board give their consent, on being satisfied that it is desirable in the interest of the public that the restriction on buildings should be removed, and the consent may be made subject to conditions as to the mode in which the land is to be built upon.

(f) Land used for the purposes of games or recreation where the Commissioners are satisfied that under the agreement as originally made the land must be used for such purposes for at least five years, or other circumstances render it probable that the land will continue to be so used.

(g) Land not exceeding one acre in extent and occupied with a dwelling-house.

(h) Gardens and pleasure grounds occupied with a dwelling-house where the site value of the dwelling-house does not exceed twenty times the annual value of the garden and dwelling-house as assessed to Income Tax (Schedule A). Where the grounds, etc., extend to over five acres, the exemption only extends to such five acres as the Commissioners determine to be best adapted for



use as gardens, etc., in connection with the house. Where the property is assessed under Schedule A with other land, the Commissioners may apportion such assessment.

(i) Agricultural land held under a tenancy or lease created before 30th April 1909. The exemption only extends to the earliest time at which the landlord has power to determine the letting.

(j) Agricultural land occupied and cultivated by the owner (including the lessor where the lease was originally granted for a term of 50 years or longer) where the total value of such land, together with any other land belonging to the same person, does not exceed £500.

(k) Sub-sec. 2 (b) of sec. 16, as amended by sec. 4 of the Revenue Act, 1911, provides that where the land is included in a scheme of land development, and expenditure on roads or sewers has been incurred with a view to developing the land, the land shall be treated as developed to the extent of one acre for every complete £100 expended during the preceding twenty years, the part to be treated as developed being that for the development of which, in the opinion of the Commissioners, the expenditure has been mainly incurred. The exemption ceases if the land, having been developed, reverts to the condition of undeveloped land.

The duty is payable on 1st January in each year, and is recoverable from the owner for the time being (sec. 19), *i.e.*, any time between 1st January and 31st March, and the term owner is defined in sec. 41. There is no provision for apportioning the duty as between successive owners or upon the land ceasing to be undeveloped during the year. It would appear that the full duty can be demanded if the land was undeveloped on 1st April, or becomes so at any time before the 31st March.

**Site Value of Undeveloped Land.**—The site value for the purpose of undeveloped land duty is the original site value or the site value ascertained under any subsequent valuation of undeveloped land at the time being in force, provided that where increment value duty has been paid the site value is to be reduced by five times the amount paid as increment value duty. Minerals are to be excluded from the valuation for undeveloped land duty.

It is important to notice that the deduction from the site value

is only to be made where increment value duty has been paid. Under sec. 14 (4), however, payments in respect of reversion duty in respect of a benefit which is identical with increment value are to be treated as payments of increment duty also, and the exemption would also undoubtedly apply in this case.

### *Example*

A mansion with pleasure grounds of 10 acres and agricultural lands 100 acres in extent, with farm buildings thereon. The portion nearest the roadway is being developed for building, and £200 has been spent on roads and sewers. The house and 110 acres are assessed to Income Tax (Schedule A) at £240 per annum, and the Commissioners have apportioned this as follows:—Mansion and 10 acres of pleasure ground, £150; 100 acres of agricultural land, £90.

The original valuation of the mansion and 10 acres is—

Gross value and total value	-	-	-	-	£5,000
Full site value and assessable site value	-	-	-	-	800

The site value of the dwelling-house does not exceed twenty times the annual value of the dwelling-house and garden, as assessed to the Income Tax, and therefore five acres is exempt from undeveloped land duty.

The Commissioners decide which is the five acres best adapted for use as gardens, etc., in connection with the house. It is then necessary to divide the £800 between this five acres and the remaining five acres which are to be treated as undeveloped land. It is decided, say, that each half is equal in value to the other. Duty is then payable upon £400.

The original valuation of the agricultural land and farm buildings is—

Gross value and total value	-	-	-	-	-	£9,200
(Building value £90 per acre + £200 by which the value is increased by reason of the expenditure of £200)—						
Full site value	-	-	-	-	-	9,200
Assessable site value	-	-	-	-	-	9,000
Value for agricultural purposes (say £100 × 26 Y.P.)	-	-	-	-	-	2,600

The amount upon which duty is payable is arrived at as follows—

Assessable site value (100 acres at £90 per acre) -	£9,000
Deduct area of road, say $\frac{1}{4}$ acre.	
Deduct 2 acres most improved by the expenditure of £200.	
2 $\frac{1}{4}$ acres of most valuable land (say £200 per acre)	450
Leaving 97 $\frac{3}{4}$ acres - - - - -	8,550
Deduct agricultural value, say 97 $\frac{3}{4}$ acres at £26 per acre - - - - -	2,541
Value upon which duty is payable - - -	<u>£6,009</u>

### Valuation under the Act

**Original Valuation.**—Sec. 26 provides that the Commissioners shall make, as soon as may be, a valuation of all land in the United Kingdom as on 30th April 1909. All land, whether exempted from the duties or not, is to be included. The valuation is to show the total value and site value of each piece of land in separate occupation, and of any part which the owner requires to be separately valued. Sec. 5 of the Revenue Act, 1911, also empowers the Commissioners, upon the request of the owner of any pieces of land which are contiguous, and do not in the aggregate exceed one hundred acres in extent, to value these pieces of land together, although these pieces of land are under separate occupation, if they are satisfied that it is equitable to do so. The value of land for agricultural purposes is also to be shown where that differs from the site value. All minerals are to be treated as separate parcels of land.

A copy of this valuation is served upon the owner on form 36 land, together with an explanatory letter (form 35 land), and a copy of these forms is given on pp. 323-325.

**Returns and Estimates by Owner.**—The Commissioners may require any owner or person receiving rent to make a return as to the rent received, as to ownership, tenure, area, character, and use of the land, and the consideration given on any previous sale or lease, and any other particulars necessary for the purpose of the valuation; and any owner may, if he thinks fit, furnish his

estimate of the total value or site value, or both, and it shall be considered by the Commissioners in making their valuation. Any owner who has not supplied the information applied for should do so without delay, and owners generally will be well advised to give all necessary information and assistance in order that the valuation of their property may not be delayed, but carried out as soon as possible, while the conditions in the year 1909 are well known and before any alterations have taken place which may lead to dispute.

**Provisional Valuation.**—The Commissioners are to make a provisional valuation and send a copy to the owner (form 36). Unless he objects to the figures within sixty days, or the Commissioners amend their valuation within this time, the valuation will be finally settled and the values shown will be adopted as the original total value and original site value. The Commissioners may amend any valuation, whether objected to or not, if it is not finally settled. Any person interested in the land may obtain a copy of the provisional valuation, and has the same power of objection or appeal as the owner.

**Objections and Appeals.**—If the owner is not satisfied he may send notice to the Commissioners within sixty days stating the grounds of his objection and the amendment he requires. All the grounds of the objection should be stated. The objector will, on appeal, probably be limited to the same grounds as he raised in his objection in the same manner as in rating cases under the Act of 1862 (*vide R. v. London Justices* (1897), 1 G. B. 443). If the Commissioners do not alter the values to his satisfaction, the owner may give notice of appeal at any time after thirty days from the date of his objection; but no person may appeal who has not objected to the Commissioners, neither can objection be made to the original valuation at any time subsequently to its being settled.

If the Commissioners give notice that they do not intend to amend a valuation, or do not intend to further amend a valuation, any appeal must be made within thirty days of that date.

The appeals are to be heard by referees appointed by the reference committee constituted under sec. 33, and in accordance with rules made by the committee (see pp. 303-309). The reference committee in England consists of the Lord Chief Justice, the Master of the Rolls, and the President of the Surveyors' Institu-

tion, and they have appointed a number of eminent surveyors to act as referees. The referee is to determine the appeal in consultation with the Commissioners and the appellant, and may award costs against either side.

Appeal from the referees' decision may be made to the High Court, or where the total or site value does not exceed £500, to the County Court, and in either case there is the further right of appeal to the Court of Appeal.

**Duty pending Valuation.**—If duty becomes payable before the original valuation is completed, the provisional valuation is to be used, and any difference in the duty is to be treated as arrears, except as regards penalties for arrears, or to be repaid by the Commissioners, as the case may be, when the original valuation is settled.

The various definitions of values of land to be ascertained under the Act are given in sec. 25. The terms are somewhat confusing, as they are largely used in other connections, and accordingly great care is necessary, in reading Part I. of the Act, to understand exactly what kind of value is meant in any particular case.

**Original Valuations.**—Four different kinds of value are given, viz., (a) "gross value," which is only used as a step in the calculation of full site value and total value; (b) "full site value," which is only used for the purpose of calculating assessable site value; (c) "total value," which is used for calculating assessable site value, and also in assessing reversion duty and increment value duty in the case of lands held by bodies corporate or unincorporate; (d) "assessable site value," which is used for various purposes under the Act. Wherever the term site value is used in the Act (except in the case of site value of land on an occasion when increment value duty is to be collected), it is to be taken to mean assessable site value.

The definitions of the four kinds of values are as follows:—

25.—(1) For the purposes of this Part of this Act, the gross value of land means the amount which the fee simple of the land, if sold at the time in the open market by a willing seller in its then condition, free from incumbrances, and from any burden, charge, or restriction (other than rates or taxes) might be expected to realise.

(2) The full site value of land means the amount which remains after deducting from the gross value of the land the difference (if any) between that value and the value which the fee simple of the land, if sold at the time in the open market by a willing seller, might be expected to realise if the land were divested of any buildings and of any other structures (including fixed or attached machinery) on, in, or under the surface, which are appurtenant to or used in connection with any such buildings, and of all growing timber, fruit trees, fruit bushes, and other things growing thereon.

(3) The total value of land means the gross value after deducting the amount by which the gross value would be diminished if the land were sold subject to any fixed charges, and to any public rights of way or any public rights of user, and to any right of common, and to any easements affecting the land, and to any covenant or agreement restricting the use of the land entered into or made before the thirtieth day of April nineteen hundred and nine, and to any covenant or agreement restricting the use of the land entered into or made on or after that date, if, in the opinion of the Commissioners, the restraint imposed by the covenant or agreement so entered into or made on or after that date was when imposed desirable in the interests of the public, or in view of the character and surroundings of the neighbourhood, and the opinion of the Commissioners shall, in this case, be subject to an appeal to the referee, whose decision shall be final.

(4) The assessable site value of land means the total value after deducting—

(a) The same amount as is to be deducted for the purpose of arriving at full site value from gross value ; and

(b) Any part of the total value which is proved to the Commissioners to be directly attributable to works executed, or expenditure of a capital nature (including any expenses of advertisement) incurred *bona fide* by or on behalf of or solely in the interests of any person interested in the land for the purpose of improving the value of the land as building land, or for the purpose of any business, trade, or industry other than agriculture ; and

(c) Any part of the total value which is proved to the Commissioners to be directly attributable to the appropriation of any land or to the gift of any land by any person interested in the land for the purpose of

streets, roads, paths, squares, gardens, or other open spaces for the use of the public ; and

- (d) Any part of the total value which is proved to the Commissioners to be directly attributable to the expenditure of money on the redemption of any land tax, or any fixed charge, or on the enfranchisement of copyhold land or customary freeholds, or on effecting the release of any covenant or agreement restricting the use of land which may be taken into account in ascertaining the total value of the land, or to goodwill or any other matter which is personal to the owner, occupier, or other person interested for the time being in the land ; and
- (e) Any sums which, in the opinion of the Commissioners, it would be necessary to expend in order to divest the land of buildings, timber, trees, or other things of which it is to be taken to be divested for the purpose of arriving at the full site value from the gross value of the land, and of which it would be necessary to divest the land for the purpose of realising the full site value.

Where any works executed or expenditure incurred for the purpose of improving the value of the land for agriculture have actually improved the value of the land as building land, or for the purpose of any business, trade, or industry other than agriculture, the works or expenditure shall, for the purpose of this provision, be treated as having been executed or incurred also for the latter purposes.

Any reference in this Act to site value (other than the reference to the site value of land on an occasion on which increment duty is to be collected) shall be deemed to be a reference to the assessable site value of the land as ascertained in accordance with this section.

(5) The provisions of this section are not applicable for the purpose of the valuation of minerals.

**Gross Value.**—There are one or two points to notice in the definition of gross value. The expression “if sold at the time in the open market” would not warrant a lower valuation because it was made, say in August, when the market was slack (Lord Johnson in *Inland Revenue v. Marr’s Trustees* (1906), a case under the Finance Act, 1894).

The words “by a willing seller” will not exclude the present owner from being taken into account as a hypothetical purchaser

if the property is of greater value to him than to any other person, as is, of course, frequently the case. This view is supported by *R. v. London School Board* (1886) and *London County Council v. Erith and West Ham* (1893), where it was held that in determining "the rent which a tenant might reasonably be expected to pay" for the purpose of ascertaining gross and rateable value, the occupying owner was to be taken as a possible tenant.

The expression "free from incumbrances, and from any burden, charge, or restriction" will prevent the deduction of rent-charges and tithes in calculating the gross value, and also the reduction of the value by reason of any easements which the owners of other tenements may enjoy over the property. If a licence is paid for some privilege which enhances the value of the hereditament, for example, a licence for a window overlooking an adjoining property, or for the use of a private road, the enhancement due to the privilege should be taken into account. The value of any easement which the property enjoys must be included in the gross value. Any lease of the property at an exceptionally high or exceptionally low rent must be disregarded, and if the fee simple value is calculated from annual value, a fair rental value must be assumed.

If the property will let best divided into parts, *e.g.*, shop and office premises in the Strand, or if it is a country property with good sporting and these rights will best be let separately from the land, these facts must be taken into account and the gross value arrived at, having regard to what a purchaser will pay who intends to so deal with the property.

Where a property has special adaptability for a particular trade, this must be taken into account, as it is to be assumed that a person wishing to carry on that trade would pay a higher price than anyone else for the premises. Personal goodwill must not be taken into account, however, and although a good business may be carried on in a particular building, if it can be conducted equally well in another building the gross value of the property will not be enhanced by reason of this business.

In the case of public-houses and other licensed premises the value must be taken as that of a licensed house and not of ordinary shop or business premises. The principles which hold in the case of assessment for rating will apply with the necessary



modifications, having regard to the fact that in one case we have to arrive at annual value and in the other at the value of the fee simple. The rating of these properties is fully dealt with in "Law and Practice of Rating and Assessment," by the present writer.

In the rating of buildings containing machinery, all machinery and plant "which are on the premises to be rated, and which are there for the purpose of making and which make the premises fit as premises for the particular purpose for which they are used, are to be taken into account in ascertaining the rateable value of such premises" (Lord Esher, M.R., in *Tyne Boiler Works Co. v. Longbenton* (1886)). With regard to gross value under the land valuation clauses, however, the test is rather whether the machinery would pass in a demise of the property. Particular care must be taken in valuing such machinery as is included. Obsolete machinery may be in use for which neither the owner nor any other person would pay much more than scrap price. Regard, too, must be had to the adaptability of the machinery and building to each other.

The reader has been warned in other parts of this volume against taking actual figures of cost as equivalent to value without careful examination. The cost of building has greatly increased during the last twenty years, and if premises built say twenty years ago have been kept in good condition, and are as suitable for the purpose for which they are required as any which could be erected now, the value may be even greater than the cost. On the other hand, if the premises are badly planned according to modern requirements, the value may be very greatly below the cost. Sometimes much ornamental work is put into buildings, especially large mansions, which would rather lessen than increase the value to a prospective purchaser. Care must be taken, however, not to deduct too much in respect of ornament in the case of commercial buildings. The large sums being spent upon elaborate elevations in modern business premises tend to show that imposing buildings are profitable.

Great care is necessary in valuing factories arranged for special businesses, or on a very large scale, or in inaccessible positions, and which are either empty or being carried on at a very small margin of profit. In such cases it may well be that the gross value is no greater, or is even less, than the value of

the bare land, and that the only likely purchasers would be speculators who would pull the buildings down and erect premises according to the present demand.

Large mansions also present great difficulties. They may have cost a very large sum of money some years ago, but if they are not up to date, or capable of being made so, it will be practically impossible to find a purchaser except, perhaps, at the bare land value or a little over. In cases where the premises are capable of being modernised, and there is then a market for them, the cost of bringing up to date must of course be deducted.

**Full Site Value.**—According to the definition (1) the fee simple value of the site, devoid of buildings and timber, etc., is to be ascertained; (2) the difference between this value and the gross value is then arrived at; and (3) this is to be deducted from gross value. The wording of the section is most peculiar, and the operation may be stated thus:—If  $a$  = gross value, and  $b$  = the value of the cleared site, then

$$\text{Full site value} = a - (a - b)$$

If  $a$  is greater than  $b$ , as is, of course, generally the case, then full site value =  $b$ , *i.e.*, the value of the site devoid of buildings and timber, etc.

If, however, the value of the cleared site ( $b$ ) is greater than that of the property as it stands, as will be the case, for example, of land in Oxford Street with a derelict building upon it, then the definition says that full site value is not only less than the value of the cleared site, but also less than the gross value by the difference between the value of the site with the buildings and without them. Mr E. M. Konstam, in his able book upon this part of the Act, submits that this cannot be the intention of the Act, and he is obviously correct, but what the Courts would uphold as the meaning of the words of the Act is another matter. He suggests that in this case the full site value will be the value of the site as devoid of buildings, etc.

At first sight it would appear that the amount to be deducted between gross and full site values was the value of the structure, timber, etc., but a very little consideration shows ~~that~~ this is not so, save in some exceptional cases.

In valuing a particular site cleared of buildings, etc., we have to imagine all other properties in the actual condition in which they exist. In the case of a public-house there is some doubt as to whether the site is to be valued as if it were to be sold with a guarantee that a licence will be granted to the building to be erected. It would seem, however, that this is not so, and that if it is practically certain that a new licence would not be granted in respect of a building in that position (as is the case in probably 99 per cent. of London public-houses), the value will only be that for other purposes.

The "full site value" is not (as such) put to any practical use in the Act, but the deduction made from "gross value" to arrive at "full site value" is used in ascertaining "assessable site value" in sub-sec. 4 (a).

**Total Value of Land** has to be shown separately in the original valuation of all land in the United Kingdom under sec. 26 of the Act, and the owner of land may, if he thinks fit, furnish his own estimate of the total value under that section.

The total value is arrived at by making certain deductions from gross value, viz. :—

The amount by which the gross value would be diminished if the land were sold subject to—

- (a) Fixed charges, *i.e.*, any rent-charge and any burden or charge (other than rates or taxes) arising by operation of law, imposed by Act of Parliament, or by the exercise of powers or duties granted or imposed by Act of Parliament, otherwise than by a person interested in the land or in consideration of any advance to any person interested in the land.
- (b) Public rights of way, or public rights of user.
- (c) Rights of common or any easements affecting the land.
- (d) Covenants or agreements restricting the use of the land, and made prior to 30th April 1909, or since that date, if in the opinion of the Commissioners the restraint when made was desirable in the interests of the public, or of the neighbourhood.

It will be seen that these deductions are to be the amounts by which the gross value is decreased by reason of the charge, easement, etc., and not the sum which it would cost to redeem

the charge or to abolish the easement. Thus, in the case of a house let at £50 per annum on lease, and subject to a chief-rent of £2 per annum, the capital value might be arrived at as follows :—

Rent - - - - -	£50
Deduct chief-rent - - - -	2
	<hr/>
Net income - - - - -	£48
Perpetuity, 5 per cent. - - -	20
	<hr/>
	<u>£960</u>

In this case the deduction between gross and total value on account of the charge is £2 × 20 Y.P. = £40, although it might cost 30 years' purchase to redeem the charge.

Again, take a farm let at £100 subject to a tithe rent-charge amounting last year to £7 :—

Rent - - - - -	£100
Deduct repairs, say - - -	£8
Tithe - - - - -	7
	<hr/>
	15
Net income - - - - -	£85
Perpetuity, say 26 Y.P. =	£2,100.

In this case, although it would cost about £250 (£10 × 25) to redeem the tithe rent-charge, the reduction is only £7 × 26 Y.P. = £182.

**Assessable Site Value.**—This is the most important valuation to be made under the Act. It is referred to in other parts of the Act as “site value” merely, but “site value of land on an occasion when increment value duty is to be collected” is ascertained in an entirely different manner (see p. 227). The assessable site value is arrived at by deducting from total value :—

- (a) The deductions made between gross value and full site value.
- (b) The amount by which total value is increased by reason of works or capital expenditure (including expenses of advertisement) incurred for the purpose of improving the value

of the land as building land, or for any business, trade, or industry other than agriculture. Where expenditure increases the value both for agriculture and other purposes as above it is to be deducted.

- (c) Appropriation of land for streets, roads, paths, squares, gardens, or open spaces for the use of the public, or gift of any other land for such purposes by a person interested in the land being valued.
- (d) Redemption of land tax, fixed charges, enfranchisement, removal of incumbrances, goodwill, or other matter personal to the owner or other person interested in the land for the time being.
- (e) Estimated cost of divesting the land of buildings, timber or trees for the purpose of realising the full site value where it is necessary to so divest the land to realise the full site value.

### Mineral Rights Duty

By sec. 20 a mineral rights duty of 1s. in the £ is levied on the rental value of all rights to work minerals and all mineral wayleaves. The term minerals is not defined, but the following are excluded, viz., common clay, common brick clay, common brick earth or sand, chalk, limestone, and gravel.

The duty is due on 1st January, and is levied annually upon the owner where he works the minerals and upon the immediate lessor of the working lessee in other cases, any contract to the contrary notwithstanding. Where the lessor is himself a lessee of the wayleave or right to work minerals, he may deduct from his lessor the duty upon the rent which he pays. If the annual value is taken at less than the rent paid, the Commissioners may make a corresponding reduction as regards the rent paid by the immediate lessor.

Where the owner has paid increment value duty on the minerals in the year, he is given relief to that extent of such payment from the mineral rights duty, and *vice versa*.

**Rental Values of Right to work Minerals and Mineral Wayleaves.**—Where the minerals are worked by the owner, the rental value is the sum which the Commissioners determine that he would have received as rent if he had let the

right to work the minerals upon the conditions customary in the district, and if the minerals had been so worked in the preceding year.

Where the right to work minerals is the subject of a mining lease, the rental value is the sum (including royalties, etc.) paid by the working lessee during the previous working year, *i.e.*, the year ending 30th September.

### **Increment Value Duty on Minerals**

Where minerals are comprised in a mining lease or are being worked, the increment value duty is levied annually in the same manner and with the same right to deduction as in the case of the mineral rights duty. It is one pound in every complete five pounds on the increment value in the year, *i.e.*, the amount by which the sum on which mineral rights duty is paid exceeds the annual equivalent (taken at two twenty-fifths) of the original capital value of the minerals or the capital value on the last preceding occasion on which increment value duty has been collected otherwise than as an annual duty.

**Exemptions from and Reductions in the Duty.**—The duty is not to be charged on minerals which were comprised in a mining lease or were being worked by the proprietor on 30th April 1909, so long as they are comprised in a lease or are so being worked. Any temporary cessation of lease or working not exceeding two years is not to affect the right to exemption.

Where the rental value represents in part a return of money expended within 15 years by a lessor on boring, or otherwise proving the minerals, it is to be reduced by the amount which represents such return.

**Minerals ceasing to be Worked or comprised in a Lease.**—Where the minerals cease to be worked or comprised in a mining lease their capital value is to be ascertained as directed by sec. 23; and this value will be taken as original capital value when the minerals again come to be worked or comprised in a mining lease, as well as for the purposes of increment value duty under sec. 2 (1) in respect of land with minerals not worked or comprised in a lease.

**Total and Site Value of Minerals.**—With regard to value of minerals, sec. 23 provides as follows :—

23.—(1) For the purposes of this Part of this Act, the total value of minerals means the amount which the fee simple of the minerals, if sold in the open market by a willing seller in their then condition, might be expected to realise, and the capital value of minerals means the total value, after allowing such deduction (if any) as the Commissioners may allow for any works executed or expenditure of a capital nature incurred *bona fide* by or on behalf of any person interested in the minerals for the purpose of bringing the minerals into working, or where the minerals have been partly worked, such deduction as is, in the opinion of the Commissioners, proportionate to the amount of minerals which have not been worked.

(2) For the purposes of valuation under this Part of this Act, all minerals shall be treated as a separate parcel of land ; but where the minerals are not comprised in a mining lease or being worked, they shall be treated as having no value as minerals, unless the proprietor of the minerals, in his return furnished to the Commissioners, specifies the nature of the minerals and his estimate of their capital value.

Minerals which are comprised in a mining lease or are being worked shall be treated as a separate parcel of land, not only for the purposes of valuation, but also for the purpose of the assessment of duty under this Part of this Act.

(3) The provisions of this Part of this Act with respect to valuation shall not apply to minerals which were, on the thirtieth day of April nineteen hundred and nine, either comprised in a mining lease or being worked by the proprietor, so long as they are for the time being either comprised in a mining lease or being worked by the proprietor, nor shall such provisions apply to any minerals which cease for a temporary period to be comprised in a mining lease or to be worked so long as the period does not exceed two years.

(4) Except where the context otherwise requires, any references in this Part of this Act to the site value of land shall, in cases where the land consists solely of minerals, or comprises minerals, be construed, so far as respects the minerals, as a reference to the capital value of the minerals.

### Appeals

The manner in which objections and appeals against original valuations are to be made and dealt with are shown on p. 238,

but the decision of the Commissioners in all matters relating to assessment, collection, etc., with the exception of those mentioned in the next paragraph, are subject to appeal to referees, and the High Court under the provisions of secs. 33 and 34 of the Act.

Sec. 17 (3) provides that the opinion of the Commissioners as to matters which are expressed to be matters for the opinion of the Commissioners under this sub-section shall be final, and not subject to appeal. These points include reasonable access by the public or inhabitants of the locality to woodlands, paths, gardens, and open spaces; where land is being kept free from buildings under a definite scheme of development, the reasonable necessity in the interests of the public that the land should so be kept free; where circumstances render it probable that land will continue to be used for games, etc.

Below are given further examples to illustrate Part I. of the Act:—

#### *Example 1*

*Gross Value, Full Site Value, Total Value, Assessable Site Value, Substituted Site Value under Section 2 (3), Site Value when Increment Duty becomes payable, Increment Duty payable, Reversion Duty payable.*

Shop held on 99 years' lease from 1850 at a ground rent of £10 per annum, and let to a grocer at £100 per annum on lease. There is a covenant in the lease which prevents the shop from being used for various trades, otherwise a rent of £110 could be obtained. The lease is mortgaged for £600, the landlord pays a tithe rent-charge of £3 per annum, and land tax was redeemed 3 years ago at a cost of £52. The lease was purchased with the mortgage existing in 1905 for £1,000.

Original site value on 29th April 1909 is arrived at according to sec. 25 as follows:—

(a) Gross value

(Fee simple value free from encumbrances and from any burden, charge, or restriction.)

Annual value	-	-	-	-	-	£110
Perpetuity on 5 per cent. table Y.P.	-	-	-	-	-	20
						<hr/>
Gross value	-	-	-	-	-	<u>£2,200</u>



(b) Full site value.

Gross value as above - - - - £2,200

Value of bare site, unencumbered and  
without burden, charge, or restriction  
(say  $20 \times 60 = 1,200$  sq. ft. at 10s.  
per sq. ft.) - - - - 600

Added value of site due to buildings - £1,600

Gross value as above - - - - £2,200

Deduct added value due to buildings - 1,600

Full site value - - - - - £600

It will be seen that the last calculation is superfluous, but it is worked out here in accordance with the wording of the Act.

(c) Total value.

Gross value as above - - - - £2,200

Deduct—

Tithe rent-charge, £3 at 20 Y.P. £60

Reduction in value due to re-  
strictive covenant, £10 per  
annum for 40 years (5 per cent.  
table) Y.P. = 17.16 - - 172

232

Total value - - - - - £1,968

(d) Assessable site value.

Total value - - - - - £1,968

Deduct—

Difference between gross value and  
full site value - - £1,600

Land tax redemption - - 52

1,652

Original assessable site value - - £316

By sec. 2 (3) the owner can, by applying within three months of the final determination of the original site value, have the

original site value for the purpose of increment duty determined upon the basis of the price which he paid for his interest in the same manner as it is to be estimated by reference to the consideration given upon a transfer where increment value duty is to be collected, that is to say, on the lines of the White Paper quoted upon p. 228. The substituted site value for increment duty on this basis will then work out as follows:—

SUBSTITUTED SITE VALUE UNDER SEC. 2 (3).

Consideration	-	-	-	-	-	-	-	£1,000
Add mortgage debt	-	-	-	-	-	-	-	600
								<hr/>
								£1,600
Y.P. 44 years on 6 per cent. table	-	-	-	-	-	-	-	15.38
								<hr/>
Annual equivalent of consideration	-	-	-	-	-	-	-	£104
Add ground rent	-	-	-	-	-	-	-	10
								<hr/>
								£114
Perpetuity Y.P.	-	-	-	-	-	-	-	20
								<hr/>
								£2,280
Make like deductions as in original valuation.								
Difference between gross value and full site value	-	-	-	-	-	-	-	1,600
								<hr/>
Substituted site value	-	-	-	-	-	-	-	£680
								<hr/>

SITE VALUE WHEN INCREMENT VALUE DUTY BECOMES PAYABLE

(see p. 228).

The lessor in 1912 sells his interest (lease with 37 years to run) to the occupier for £1,400, the mortgage still standing. The annual value is now £115 (with the restrictive covenant, the effect of which is still to reduce the value £10 per annum), and the value of the site £650.

First: Arrive at fee simple value on the basis of the consideration :—

Consideration	-	-	-	-	-	-	-	£1,400
Add mortgage debt	-	-	-	-	-	-	-	600
								<u>£2,000</u>

It is considered that the price in the open market between a willing seller and a willing buyer would be calculated on the 6 per cent. table.

Y.P. 37 years on 6 per cent. table	-	-	-	-	-	-	-	<u>14.74</u>
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Annual value equivalent to the total consideration,

$\frac{2000}{14.74}$	=	-	-	-	-	-	-	£135.68
Add ground rent	-	-	-	-	-	-	-	<u>10</u>

£145.68

The fee simple is still considered to be worth Y.P. 20

Fee simple value on basis of consideration - £2,913

Second: Calculate gross value and full site value as on the occasion :—

Gross value = £115 × 20 Y.P. =	-	-	-	-	-	-	-	£2,300
Full site value	-	-	-	-	-	-	-	<u>650</u>

Difference - - - - - £1,650

Third: Gross value on basis of consideration (as above) - - - - - £2,913

Make like deductions as in original valuation.

Allowance between gross and full site value (as above) - - - - - £1,650

Land tax redemption - - - - - 52

1,702

Site value on the occasion - - - £1,211

# INCREMENT VALUE DUTY PAYABLE.

Site value on occasion - - - - - £1,211

Substituted site value + 10 per cent. (£680 + £68) 748

Increment value - - - - - £463

Increment value duty = £1 in every complete £5 = £92.

The interest transferred is a lease for 37 years, therefore the duty payable is the proper proportion (sec. 3 (3)), *i.e.*, the ratio of the present value of an annuity for 37 years to the present value of the same annuity in perpetuity, both calculated on the 4 per cent. table (see regulations, p. 310).

$$\text{Duty payable therefore} = £92 \times \frac{19.14}{25} = £70. 8s. 8d.$$

If advantage had not been taken of the provisions of sec. 2 (3) the duty payable would have been much greater. The increment value would have been  $£1,211 - (£316 + £32) = £863$  instead of  $£463$ ; the full duty,  $£172$  instead of  $£92$ , and the duty payable,  $£131. 13s. 5d.$  instead of  $£70. 8s. 8d.$

### REVERSION DUTY

In 1949 the building lease falls in and reversion duty becomes payable. The premises will now let (without any restrictive covenant) at  $£130$ . They are old houses, and considered to be worth  $£2,300$ .

Total value at the time of the original grant of the lease—

Ground rent, $£10$ per annum at say 25 Y.P.	-	$£250$
Total value in 1949	- - - - -	<u><math>2,300</math></u>
Benefit accruing	- - - - -	<u><u><math>£2,050</math></u></u>

The duty will thus be  $£1$  for every complete  $£10$  of  $£2,050 = £205$ , less any increment value included in the benefit accruing therein, upon which increment value duty has been paid.

### Example 2

*Showing how to arrive at the fee simple value from the consideration paid for a lease where the premises are in bad repair.*

The residue of a lease, with sixty years to run, is purchased for  $£520$ , and it is considered that an immediate expenditure upon drainage, structural repairs, and decorations, of  $£150$ , is necessary in order to maintain a fair annual rent.

Consideration	-	-	-	-	-	-	£520
Add necessary expenditure	-	-	-	-	-	-	150
							<hr/>
Consideration if in repair	-	-	-	-	-	-	£670
60 years on 6 per cent. table Y.P.	-	-	-	-	-	-	16.16
							<hr/>
Equivalent net annual value, $\frac{670}{16.16}$	-	-	-	-	-	-	£41.46
Perpetuity, say Y.P.	-	-	-	-	-	-	20
							<hr/>
Fee simple value if in repair	-	-	-	-	-	-	£829
Deduct necessary expenditure	-	-	-	-	-	-	150
							<hr/>
Fee simple value on basis of consideration paid for leases	-	-	-	-	-	-	<u>£779</u>

*Example 3*

*Undeveloped Land Duty and Increment Value Duty.*

An estate of 50 acres was purchased in 1908 for £36,000, for the purpose of development as a building estate. Prior to 30th April 1909 a net sum of £200 was spent upon clearance of old buildings, hedges, etc., and £250 in redeeming land tax and tithe. There was a public right of way across the estate which greatly interfered with the development.

Original site value—

The estate is valued, free of all charges, easements, etc., on 30th April 1909, at	-	-	-	-	-	£37,000
Deduct clearance, etc.	-	-	-	-	-	£200
Redemption of land tax and tithe	-	-	-	-	-	250
Right of way, say	-	-	-	-	-	300
						<hr/>
						750

Original assessable site value £36,250

or an average of £725 per acre.

Undeveloped land duty will be payable on this amount in respect of the year 1909-10.

During 1909-10 the owner expended £2,000 on roadways and sewers, giving up 2 acres for roadways, which are handed over to the local authority.

Twenty-two acres of the land will be free of undeveloped land duty in respect of 1910-11, that is, the 2 acres thrown into the roadway and 20 acres which the Commissioners decide are benefited mostly by the expenditure of £2,000 on roadways and sewers: this will be the land abutting on the roads. The 28 acres remaining will presumably be of less than the average value. The original site value, £36,250, must be apportioned between the 22 acres and the 28 acres. The 22 acres were worth in 1909 say £18,000, and the 28 acres £18,250. The duty in 1910-11 is thus payable on £18,250.

In the autumn of 1912 a plot of  $\frac{1}{4}$  acre abutting on a roadway is sold for £400, and increment value duty becomes payable.

Original site value (on the basis of £36,250 for the 50 acres) - - - - - £250

(It would be greater than the average value, as presumably it is close to the old roads.)

Site value on the occasion of the increment value duty becoming payable—

Price ascertained by sale - - - - £400

Deduct—

Redemption of land tax, say £2

Expenses of road and sewers 30

Appropriation of land for  
roadway - - - - 25

Expenses of advertising - 3

Fencing, etc. - - - 10

— 70

Assessable site value - - - - - 330

Increment value - - - - - £80

Deduct 10 per cent. of £250 - - - - 25

Amount upon which increment duty is payable £55

The increment value duty will thus be £11.

# APPENDIXES

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## FINANCE (1909-10) ACT, 1910

[10 EDW. 7. CH. 8]

*(So far as it relates to Land Values)*

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### ARRANGEMENT OF SECTIONS

#### PART I.—DUTIES ON LAND VALUES

##### *Increment Value Duty*

Section

1. Duty on increment value.
2. Definition of increment value.
3. General provisions as to collection of increment value duty.
4. Collection and recovery of duty in cases of transfers and leases.
5. Collection and recovery of duty in case of death.
6. Collection and recovery of duty in case of property held by bodies corporate or unincorporate.
7. Exemption for agricultural land.
8. Exemption of small houses and properties in owner's occupation.
9. Special provision for increment value duty in the case of land used for games and recreation.
10. Provision as to Crown lands, etc.
11. Special provision as to flats.
12. Provision as to claims for deductions.

##### *Reversion Duty*

13. Reversion duty.
14. Exemptions from reversion duty, and allowances.
15. Recovery of reversion duty.

*Undeveloped Land Duty*

## Section

16. Duty on site value of undeveloped land.
17. Exemptions from undeveloped land duty, and allowances.
18. Exemption of small holdings from undeveloped land duty.
19. Recovery of undeveloped land duty.

*Mineral Rights Duty and Provisions as to Minerals*

20. Mineral rights duty.
21. Deduction of duty in case of intermediate leases of minerals.
22. Special provisions as to increment value duty and reversion duty in the case of minerals worked or leased.
23. Application of provisions as to total and site value to minerals.
24. Definitions for purpose of mineral provisions.

*Valuation for Purposes of Duties on Land Values*

25. Definition of values of land.
26. Valuation of land for purposes of Act.
27. Ascertainment of the original site value of land.
28. Periodical valuation of undeveloped land.
29. Assessment of duty on separate parcels of land and apportionment of valuation.
30. Duties of Commissioners as to keeping records and giving information.
31. Information as to names of owners of land.
32. Determination of value of consideration.

*Appeals*

33. Appeals to referees.
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*Supplemental*

35. Exemption for land held by rating authorities.
36. Deduction from increment value of sum paid to rating authority in respect of increase in value.
37. Special provision for land held for charitable purposes, etc.
38. Special provision for statutory companies.
39. Power to charge duty on land in certain cases.
40. Application of Part I. to copyholds.
41. Definitions.
42. Application of Part I. to Scotland.



**PART I.—DUTIES ON LAND VALUES****Increment Value Duty**

1. *Duty on increment value.*—Subject to the provisions of this Part of this Act, there shall be charged, levied, and paid on the increment value of any land a duty, called increment value duty, at the rate of one pound for every complete five pounds of that value accruing after the thirtieth day of April nineteen hundred and nine, and—

- (a) on the occasion of any transfer on sale of the fee simple of the land or of any interest in the land, in pursuance of any contract, made after the commencement of this Act, or the grant, in pursuance of any contract made after the commencement of this Act, of any lease (not being a lease for a term of years not exceeding fourteen years) of the land ; and
- (b) on the occasion of the death of any person dying after the commencement of this Act, where the fee simple of the land or any interest in the land is comprised in the property passing on the death of the deceased within the meaning of sections one and two, sub-section (1) (a), (b), and (c), and sub-section three, of the Finance Act, 1894, as amended by any subsequent enactment ; and
- (c) where the fee simple of the land or any interest in the land is held by any body corporate or by any body unincorporate as defined by section 12 of the Customs and Inland Revenue Act, 1885, in such a manner or on such permanent trusts that the land or interest is not liable to death duties, on such periodical occasions as are provided in this Act ;

the duty, or proportionate part of the duty, so far as it has not been paid on any previous occasion, shall be collected in accordance with the provisions of this Act.

2. (1) *Definition of increment value.*—For the purposes of this Part of this Act the increment value of any land shall be deemed to be the amount (if any) by which the site value of the land, on the occasion on which increment value duty is to be collected as ascertained in accordance with this section, exceeds the original site value of the land as ascertained in accordance with the general provisions of this Part of this Act as to valuation.

(2) The site value of the land on the occasion on which increment value duty is to be collected shall be taken to be—

- (a) where the occasion is a transfer on sale of the fee simple of the land, the value of the consideration for the transfer ; and
- (b) where the occasion is the grant of any lease of the land, or the transfer on sale of any interest in the land, the value of the fee simple of the land calculated on the basis of the value of the consideration for the grant of the lease or the transfer of the interest ; and
- (c) where the occasion is the death of any person and the fee simple of the land is property passing on that death, the principal value of the land as ascertained for the purposes of Part I. of the Finance Act, 1894, and where any interest in the land is property passing on that death the value of the fee simple of the land calculated on the basis of the principal value of the interest as so ascertained ; and
- (d) where the occasion is a periodical occasion on which the duty is to be collected in respect of the fee simple of any land or of any interest in any land held by a body corporate or unincorporate, the total value of the land on that occasion to be estimated in accordance with the general provisions of this Part of this Act as to valuation ;

subject in each case to the like deductions as are made, under the general provisions of this Part of this Act as to valuation, and for the purpose of arriving at the site value of land from the total value.

(3) Where it is proved to the Commissioners on an application made for the purpose within the time fixed by this section that the site value of any land at the time of any transfer on sale of the fee simple of the land or of any interest in the land, which took place at any time within twenty years before the thirtieth day of April nineteen hundred and nine, exceeded the original site value of the land as ascertained under this Act, the site value at that time shall be substituted, for the purposes of increment value duty, for the original site value as so ascertained, and the provisions of this Part of this Act shall apply accordingly.

Site value shall be estimated for the purposes of this provision by reference to the consideration given on the transfer in the same manner as it is estimated by reference to the consideration given on a transfer where increment value duty is to be collected on the occasion of such a transfer after the passing of this Act.

This provision shall apply to a mortgage of the fee simple of the land or any interest in land in the same manner as it applies to a transfer, with the substitution of the amount secured by the mortgage for the consideration.

An application for the purpose of this section must be made within three months after the original site value of the land has been finally settled under this Part of this Act. This sub-section is amended by sec. 2 of the Finance Act, 1911 (see p. 297), and by sec. 10 of the Finance Act, 1912 (see p. 301).

3. (1) *General provisions as to collection of increment value duty.*  
—On each occasion on which increment value duty is collected on the increment value of any land, such an amount of duty shall be deemed to be unsatisfied as the Commissioners determine after giving credit for the amount of duty paid on previous occasions. The Commissioners shall make such apportionment and reapportionments of any duty paid on previous occasions as they think necessary for the purpose of giving effect to this provision.

(2) Where increment value duty is collected on the occasion of the transfer or passing on death of the fee simple of any land, or on any periodical occasion in the case of land held in fee simple by a body corporate or unincorporate, the whole amount of the duty which is determined to be unsatisfied shall be collected by the Commissioners in accordance with rules made by them for the purpose.

(3) Where increment value duty is collected on the occasion of the grant of a lease, or on the transfer or passing on death of any interest in land, or on any periodical occasion in the case of an interest in land held by a body corporate or unincorporate, such proportionate part of the duty shall be collected as may be determined by the Commissioners to be payable in respect of the interest in land created, transferred, passing on death, or held, in accordance with rules made by them for the purpose.

(4) Where on the occasion of the death of any person the property passing on the death comprises settled land in which the deceased or any other person had an interest ceasing on the death of the deceased, then—

- (a) if the subject of the settlement at the time of the death is the fee simple of the land, increment value duty shall be collected as if the fee simple of the land passed ; and
- (b) if the subject of the settlement at the time of the death is any other interest in the land, increment value duty shall be collected as if that interest passed ;

but that duty shall not be collected on any such occasion if under the provisions of sec. 5 of the Finance Act, 1894, as amended by any subsequent enactment, estate duty is not payable in respect of the settled land.

(5) For the purpose of the collection of duty on the increment value of any land under this section, the increment value shall be deemed to be reduced on the first occasion for the collection of increment value duty by an amount equal to 10 per cent. of the original site value of the land, and on any subsequent occasion by an amount equal to 10 per cent. of the site value on the last preceding occasion for the collection of increment value duty, and the amount of duty to be collected shall be remitted in whole or in part accordingly.

Any duty which by reason of this provision is remitted on any occasion shall not be collected, and shall be deemed to have been paid :

Provided that no remission shall be given under this provision on any occasion which will make the amount of the increment value on which duty has been remitted during the preceding period of five years exceed 25 per cent. of the site value of the land on the last occasion for the collection of increment value duty prior to the commencement of that period or of the original site value if there has then been so such occasion.

(6) Increment value duty shall be a stamp duty collected and recovered in accordance with the provisions of this Act.

4. (1) *Collection and recovery of duty in cases of transfers and leases.*—On any transfer on sale of the fee simple of any land or of any interest in land, or on the grant of any lease of any land for a term exceeding fourteen years, increment value duty shall be assessed by the Commissioners and paid by the transferrer or lessor, as the case may be.

(2) It shall be the duty of the transferrer or lessor, on the occasion of any transfer on sale of the fee simple of any land or of any interest in land or on the grant of any lease of any land for a term exceeding fourteen years, to present to the Commissioners, in accordance with regulations made by them, the instrument by means of which the transfer or the lease is effected or agreed to be effected, or reasonable particulars thereof, for the purpose of the assessment of duty thereon, and, if the transferrer or lessor fails to comply with this provision, he shall be liable on summary conviction to a fine not exceeding ten pounds, and to pay interest at the rate of 5 per cent. per annum on any duty ultimately payable by him as from the date on which the instru-

ment has been executed, but any person aggrieved by any conviction or order of a Court of summary jurisdiction under this provision may appeal therefrom to a Court of quarter sessions.

(3) Any such instrument shall not, for the purposes of sec. 14 of the Stamp Act, 1891, and notwithstanding anything in sec. 12 of that Act, be deemed to be duly stamped unless it is stamped—

- (a) either with a stamp denoting that the increment value duty has been assessed by the Commissioners and paid in accordance with the assessment ; or
- (b) with a stamp denoting that all particulars have been delivered to the Commissioners, which, in their opinion, are necessary for the purpose of enabling them to assess the duty, and that security has been given for the payment of duty in any case where the Commissioners have required security ; or
- (c) with a stamp denoting that upon the occasion in question no increment value duty was payable ;

but where an instrument is so stamped, it shall, notwithstanding any objection relating to the increment value duty, be deemed to be duly stamped so far as respects that duty.

(4) Any duty assessed by the Commissioners under this section shall be a debt due to the Crown from the transferor or lessor, as the case may be, and for the purpose of calculating the amount of increment value duty to be collected on any subsequent occasion shall be deemed to have been paid. (*See also sec. 1 of the Revenue Act, 1911, on p. 297.*)

(5) Regulations may be made by the Commissioners with respect to the mode in which any instrument is to be presented to them in order to be dealt with under this section, and for dispensing with the presentation of any instrument, or particulars thereof, in cases where arrangements are made for obtaining those particulars through any registry of lands, deeds, or title, or through a Register of Sasines, and with respect to the mode in which any application for a return of duty under this section is to be made, and for the payment of any increment value duty by instalments in the case of any lease or transfer on sale where the consideration is in the form of a periodical payment ; and the Commissioners shall deal with any instrument presented to them, and allow payment by instalments in accordance with those regulations. The regulations shall provide that where the duty to be collected on the grant of a lease is payable by instalments, and the lease is determined before all such instalments have fallen due, the

instalments which have not fallen due shall be remitted, and that in that case the amount of duty which, under this section, is deemed to have been paid shall be reduced by the amount of the instalments so remitted.

(6) In any case where increment value duty shall have been paid under the provisions of this section, but the transaction in respect of which the duty shall have been paid was subsequently not carried into execution, the duty shall be returned to the transferrer or lessor on his making application to the Commissioners within two years after the payment of the duty in accordance with regulations to be made by them under this section, and in that case the duty returned shall not be deemed to have been paid for the purposes of this section.

(7) Where any agreement for a transfer or agreement for a lease is stamped in accordance with this section, it shall not be necessary to stamp any conveyance, assignment, or lease made subsequently to and in conformity with the agreement, but the Commissioners shall, if an application is made to them for the purpose, denote on the conveyance, assignment, or lease the amount of duty paid.

5. *Collection and recovery of duty in case of death.*—The provisions as to the assessment, collection, and recovery of estate duty under the Finance Act, 1894, shall apply as if increment value duty to be collected on the occasion of the death of any person were estate duty; but, where any interest in land in respect of which increment value duty is payable is property passing to the personal representative as such, the duty shall be payable out of that interest in land in exoneration of the rest of the deceased's estate, and shall be collected upon an account to be delivered by the personal representative, setting forth the particulars of the increment value in respect of the property:

Provided that in respect of all property of the deceased, other than that assessed to increment value duty, the Crown shall, as a creditor in respect of such increment value duty, rank *pari passu* with the other creditors of the deceased.

6. (1) *Collection and recovery of duty in case of property held by bodies corporate or unincorporate.*—Where the fee simple of any land or any interest in land is held by any body corporate or by any body unincorporate, as defined by sec. 12 of the Customs and Inland Revenue Act, 1885, in such a manner or on such permanent trusts that the land or interest is not liable to death duties, the occasions on which increment value duty is to be collected shall be the fifth day of April in the year nineteen hundred and fourteen, and in every subsequent fifteenth year.

(2) The account to be delivered under sec. 15 of the Customs and Inland Revenue Act, 1885, shall, in the case of the account to be delivered in the year nineteen hundred and fourteen, and in every subsequent fifteenth year, contain an account of the increment value of the land, as on the preceding fifth day of April, and that section shall, save as in this Act is hereafter provided, apply for the purpose of increment value duty, whether the body corporate or unincorporate are chargeable with duty under Part II. of the Customs and Inland Revenue Act, 1885, or not.

(3) The provisions of secs. 13 to 18 of sub-sec. (1) of sec. 19, and of sec. 20 of the Customs and Inland Revenue Act, 1885 (with the exception of any provisions relating to appeals), shall have effect for the purpose of the assessment and recovery of increment value duty as they have effect for the purpose of the duty charged under sec. 11 of that Act :

Provided that increment value duty may, if the body corporate or unincorporate chargeable therewith so desire, be paid by fifteen equal yearly instalments, and the first instalment shall be due immediately after the assessment of the duty.

Any part of any duty so payable by instalments may be paid up at any time.

(4) Any increment value duty assessed by the Commissioners on an account delivered in accordance with this section shall, for the purpose of determining the amount of increment value duty to be collected on any subsequent occasion, be deemed to have been paid.

(5) Nothing in this section shall affect the collection of increment value duty on the occasion of the grant of any lease or the transfer on sale of the fee simple of any land or any interest in land by a body corporate or unincorporate, or oblige an account to be delivered of the increment value of any land on any periodical occasion, if, under the subsequent provisions of this Part of this Act, increment value duty in respect thereof is not to be collected on that occasion.

7. *Exemption for agricultural land.*—Increment value duty shall not be charged in respect of agricultural land while that land has no higher value than its market value at the time for agricultural purposes only :

Provided that any value of the land for sporting purposes, or for other purposes dependent upon its use as agricultural land, shall be treated as value for agricultural purposes only, except

where the value for any such purpose exceeds the agricultural value of the land.

8. (1) *Exemption of small houses and properties in owner's occupation.*—Increment value duty shall not be charged on the increment value of any land, being the site of a dwelling-house, where immediately before the occasion on which the duty is to be collected the house was, and had been for twelve months previously, used by the owner thereof as his residence, and the annual value of the house, as adopted for the purpose of income tax under Schedule A, does not exceed—

- (a) in the case of a house situated in the administrative county of London, forty pounds; and
- (b) in the case of a house situated in a borough or urban district with a population according to the last-published census for the time being of fifty thousand or upwards, twenty-six pounds; and
- (c) in the case of a house situated elsewhere, sixteen pounds.

(2) Increment value duty shall not be charged on the increment value of any agricultural land where, immediately before the occasion on which the duty is to be collected, the land was, and had been for twelve months previously, occupied and cultivated by the owner thereof, and the total amount of that land, together with any other land belonging to the same owner, does not exceed fifty acres, and the average total value of the land does not exceed seventy-five pounds per acre:

Provided that the exemption under this provision shall not apply to any land occupied, together with a dwelling-house, the annual value of which, as adopted for income tax under Schedule A, exceeds thirty pounds.

(3) Where a dwelling-house is valued for the purposes of income tax under Schedule A, together with other land, and it is necessary for the purpose of this section to determine the annual value of the dwelling-house, the total annual value shall be divided between the dwelling-house and the other land in such manner as the Commissioners may determine.

(4) For the purposes of this section—

- (a) the expression “owner” includes a person who holds land under a lease which was originally granted for a term of fifty years or more; but in such a case nothing in this section shall prevent the collection of increment value duty so far as it is payable in respect of any other interest in the land other than that leasehold interest; and



(b) the site of a dwelling-house shall include any offices, courts, and yards, and gardens not exceeding one acre in extent, occupied together with the dwelling-house.

(5) Any increment value duty which would, but for this section, be charged shall, for the purpose of the provisions of this Act as to the collection of the duty, be deemed to have been paid.

9. *Special provision for increment value duty in the case of land used for games and recreation.*—Increment value duty shall not be collected on any periodical occasion in respect of the fee simple of, or any interest in, any land which is held by any body corporate or unincorporate, without any view to the payment of any dividend or profit out of the revenue thereof, *bona fide* for the purpose of games or other recreation, if the Commissioners are satisfied that the land is so used under some agreement with the owner which as originally made could not be determined for a period of at least five years, or under other circumstances which render it probable that the land will continue to be so used, without prejudice, however, to the collection of the duty on any other occasion.

10. (1) *Provision as to Crown lands, etc.*—Any increment value duty in respect of the fee simple of, or any interest in, any land held by, or in trust for, His Majesty or any department of Government, which would have been collected on any occasion had it been held by a private person, shall for the purposes of the provisions of this Act as to the collection of increment value duty be deemed to have been paid.

(2) Neither sec. 77 of the Crown Lands Act, 1829, nor sec. 38 of the Post Office Act, 1908, nor any other enactment exempting from stamp duty any document made or executed on behalf of, or for the purpose of, the Crown or any Government department, shall apply so as to prevent increment value duty being collected on any instrument by which the transfer on sale of the fee simple of, or any interest in, any land, or the grant of any lease of any land, to the Crown or to any Government department, or to any officer on behalf of, or for the purposes of, the Crown or any Government department, is effected or agreed to be effected.

11. *Special provision as to flats.*—Where a building is used for the purpose of separate tenements, flats, or dwellings, the grant of a lease of such separate tenement, flat, or dwelling, and the transfer on sale or passing on death of any lease of any such separate tenement, flat, or dwelling, shall not be an occasion on

which increment value duty is to be collected under this Act, nor shall duty be collected on any periodical occasion from a body corporate or unincorporate where the interest held by the body is only a leasehold interest in any such separate tenement, flat, or dwelling.

12. *Provision as to claims for deductions.*—A person shall not be entitled to claim any deduction for the purpose of ascertaining the site value of any land on any occasion on which increment value duty becomes payable if the deduction is one which could have been, but was not, claimed for the purpose of ascertaining the original site value of the land.

### Reversion Duty

(See also Section 3 of the Revenue Act, 1911. See p. 298.)

13. (1) *Reversion duty.*—On the determination of any lease of land there shall be charged, levied, and paid, subject to the provisions of this Part of this Act, on the value of the benefit accruing to the lessor by reason of the determination of the lease a duty, called reversion duty, at the rate of one pound for every complete ten pounds of that value.

(2) For the purposes of this section the value of the benefit accruing to the lessor shall be deemed to be the amount (if any) by which the total value (as defined for the purpose of the general provisions of this Part of this Act relating to valuation) of the land at the time the lease determines, subject to the deduction of any part of the total value which is attributable to any works executed or expenditure of a capital nature incurred by the lessor during the term of the lease, and of all compensation payable by such lessor at the determination of the lease, exceeds the total value of the land at the time of the original grant of the lease, to be ascertained on the basis of the rent reserved, and payments made in consideration of the lease (including, in cases where a nominal rent only has been reserved, the value of any covenant or undertaking to erect buildings or to expend any sums upon the property), but, where the lessor is himself entitled only to a leasehold interest, the value of the benefit as so ascertained shall be reduced in proportion to the amount by which the value of his interest is less than the value of the fee simple.

14. (1) *Exemptions from reversion duty, and allowances.*—Where, in the case of a reversion to a lease purchased before the thirtieth day of April nineteen hundred and nine, the lease on which the reversion is expectant determines within forty years of the date of the purchase, no reversion duty shall be charged

under this Part of this Act on the determination of the lease: Provided that this exemption shall not apply where the lease is determined within forty years by agreement between the lessor and the lessee, whether express or implied, not contained in the lease itself, unless the lease would, apart from any such agreement, have determined within that period.

(2) No reversion duty shall be charged on the determination of the lease of any land which is at the time of the determination agricultural land, nor on the determination of a lease, the original term of which did not exceed twenty-one years, nor shall reversion duty be charged where the interest of the lessor expectant on the determination of a lease is a leasehold interest which does not exceed that number of years.

(Section 14 (3) is repealed by Sec. 3 (5) of the Revenue Act, 1911. See p. 299.)

(4) Where on any occasion on which increment value duty is due in respect of any increment value it is proved to the satisfaction of the Commissioners that reversion duty has been paid in respect of any benefit accruing to a lessor, or part of such a benefit, which is identical with the increment value, such sums as the Commissioners determine to have been paid in respect of the benefit or part of the benefit shall be treated as being also a payment on account of increment value duty; and where on any occasion on which reversion duty is due in respect of any benefit accruing to a lessor, it is shown to the satisfaction of the Commissioners that increment value duty has been paid on any increment value which is identical with that benefit or any part of that benefit, such sums as the Commissioners determine to have been paid in respect of that value shall be treated as being also a payment on account of the reversion duty in respect of that benefit or part of a benefit.

(5) Where a reversion has been mortgaged before the thirtieth day of April nineteen hundred and nine, and the mortgagee has foreclosed before the lease on which the reversion is expectant determines, the mortgagee shall not be liable to pay reversion duty in excess of the amount by which the total value of the land at the time of the determination of the lease exceeds the amount payable under the mortgage at the date of the foreclosure.

15. (1) *Recovery of reversion duty.*—Reversion duty shall be recoverable from any lessor to whom any benefit accrues from the determination of a lease as a debt due to His Majesty, but shall rank *pari passu* with all other debts due from such lessor.

(2) Every lessor shall, on the determination of a lease on the determination of which reversion duty is payable under this

section, deliver an account to the Commissioners setting forth the particulars of the land and the estimated value of the benefit accruing to the lessor by the determination of the lease.

(3) If any person who is under an obligation to deliver an account under this section knowingly fails to deliver such an account within the period of three months after the determination of the lease, he shall be liable to pay to His Majesty a sum not exceeding ten per cent. upon the amount of any duty payable under this section, and a like penalty for every three months after the first month during which the failure continues.

(4) Sec. 17 of the Customs and Inland Revenue Act, 1885 (which relates to the power to assess duty according to accounts rendered, and to obtain other accounts), shall apply with respect to any account delivered under this section (with the exception of any provisions relating to appeals).

### Undeveloped Land Duty

16. (1) *Duty on site value of undeveloped land.*—Subject to the provisions of this Part of this Act, there shall be charged, levied, and paid for the financial year ending the thirty-first day of March nineteen hundred and ten, and every subsequent financial year in respect of the site value of undeveloped land a duty, called undeveloped land duty, at the rate of one halfpenny for every twenty shillings of that site value.

(2) For the purposes of this Part of this Act land shall be deemed to be undeveloped land if it has not been developed by the erection of dwelling-houses or of buildings for the purposes of any business, trade, or industry other than agriculture (but including glasshouses or greenhouses), or is not otherwise used *bona fide* for any business, trade, or industry other than agriculture :

Provided that—

(a) Where any land having been so developed or used reverts to the condition of undeveloped land owing to the buildings becoming derelict, or owing to the land ceasing to be used for any business, trade, or industry other than agriculture, it shall, on the expiration of one year after the buildings have so become derelict or the land ceases to be so used, as the case may be, be treated as undeveloped land for the purposes of undeveloped land duty until it is again developed or used ; and

(b) Where the owner of any land included in any scheme of land development shows that he or his predecessors in

title have, with a view to the land being developed or used as aforesaid, incurred expenditure on roads (including paving, curbing, metalling, and other works in connection with roads) or sewers, that land shall, to the extent of one acre for every complete hundred pounds of that expenditure, for the purposes of this section, be treated as land so developed or used although it is not for the time being actually so developed or used, but, for the purposes of this provision, no expenditure shall be taken into account if ten years have elapsed since the date of the expenditure, or if after the date of the expenditure the land having been developed reverts to the condition of undeveloped land, and in a case where the amount of the expenditure does not cover the whole of the land included in the scheme of land development, the part of the land to be treated as land developed or used as aforesaid shall be determined by the Commissioners as being the land with a view to the development or use of which as aforesaid the expenditure has been in the main incurred.

(*This sub-section is amended by Section 4 of the Revenue Act, 1911. See p. 299.*)

(3) For the purposes of undeveloped land duty, the site value of undeveloped land shall be taken to be the value adopted as the original site value or, where the site value has been ascertained under any subsequent periodical valuation of undeveloped land for the time being in force, the site value as so ascertained :

Provided that where increment value duty has been paid in respect of the increment value of any undeveloped land, the site value of that land shall, for the purposes of the assessment and collection of undeveloped land duty, be reduced by a sum equal to five times the amount paid as increment value duty.

(4) For the purposes of undeveloped land duty undeveloped land does not include the minerals.

17 (1) *Exemptions from undeveloped land duty, and allowances.*—Undeveloped land duty shall not be charged in respect of any land where the site value of the land does not exceed fifty pounds per acre.

(2) In the case of agricultural land of which the site value exceeds fifty pounds per acre, undeveloped land duty shall only be charged on the amount by which the site value of the land exceeds the value of the land for agricultural purposes.

(3) Undeveloped land duty shall not be charged—

- (a) On the site value of any parks, gardens, or open spaces which are open to the public as of right ; or
- (b) On the site value of any woodlands, parks, gardens, or open spaces, reasonable access to which is enjoyed by the public, or by the inhabitants of the locality (including access regularly enjoyed by any of the naval or military forces of the Crown for the purpose of training or exercise) where, in the opinion of the Commissioners, that access is of public benefit ; or
- (c) On the site value of any land where it is shown to the Commissioners that the land is being kept free of buildings in pursuance of any definite scheme, whether framed before or after the passing of this Act, for the development of the area of which the land forms part, and where, in the opinion of the Commissioners, it is reasonably necessary in the interests of the public, or in view of the character of the surroundings or neighbourhood, that the land should be so kept free from buildings ; or
- (d) On the site value of any land which is *bona fide* used for the purpose of games or other recreation, where the Commissioners are satisfied that the land is so used under some agreement with the owner which, as originally made, could not be determined for a period of at least five years, or where, in the opinion of the Commissioners, other circumstances render it probable that the land will continue to be so used.

Where any land kept free from buildings in pursuance of any definite scheme has received the benefit of an exemption from undeveloped land duty by virtue of this section, that land shall not be built upon unless the Local Government Board give their consent, on being satisfied that it is desirable in the interests of the public that the restriction on building should be removed ; and any such consent may be given subject to such conditions as to the mode in which the land is to be built upon as the Local Government Board think desirable under the circumstances.

The opinion of the Commissioners as to matters which are expressed to be matters for the opinion of the Commissioners under this sub-section shall be final, and not subject to any appeal.

(4) Undeveloped land duty shall not be charged on the site value of any land not exceeding an acre in extent occupied together with a dwelling-house or on the site value of any land being gardens or pleasure grounds so occupied when the site

value of the gardens and pleasure grounds, together with the site value of the dwelling-house, does not exceed twenty times the annual value of the gardens, pleasure grounds, and dwelling-house as adopted for the purpose of income tax under Schedule A :

Provided that the exemption under this provision shall not apply so as to exempt more than five acres, and where the land, gardens, or pleasure grounds occupied together with a dwelling-house exceed five acres in extent, those five acres shall be exempted which are determined by the Commissioners to be most adapted for use as gardens or pleasure grounds in connection with the dwelling-house.

Where the dwelling-house, gardens, and pleasure grounds are valued for the purpose of income tax under Schedule A, together with other land, the total annual value shall be divided between the dwelling-house, gardens, and pleasure grounds and the other land in such manner as the Commissioners may determine.

(5) Where agricultural land is at the time of the passing of this Act held under a tenancy originally created by a lease or agreement made or entered into before the thirtieth day of April nineteen hundred and nine, undeveloped land duty shall not be charged on the site value of the land during the original term of that lease or agreement while the tenancy continues thereunder. Provided that where the landlord has power to determine the tenancy of the whole or any part of the land, the tenancy of the land or that part of the land shall not be deemed for the purposes of this provision to continue after the earliest date after the commencement of this Act at which it is possible to determine the tenancy under that power.

18. *Exemption of small holdings from undeveloped land duty.*—Undeveloped land duty shall not be charged on the site value of any agricultural land, occupied and cultivated by the owner thereof, where the total value of that land, together with any other land belonging to the same owner, does not exceed five hundred pounds.

For the purposes of this provision the expression "owner" includes a person who holds land under a lease which was originally granted for a term of fifty years or more.

19. *Recovery of undeveloped land duty.*—Undeveloped land duty shall be assessed by the Commissioners, and shall be payable at any time after the first day of January of the year for which the duty is charged, and any such duty for the time being unpaid shall be recoverable from the owner of the land for the time being as a debt due to His Majesty, and shall be borne by that owner notwithstanding any contract to the contrary.

If at any time undeveloped land duty is not assessed within the year for which it is charged, owing to there being no value either shown in the provisional valuation or finally settled on which the duty can be assessed, or for any other reason, the duty may be assessed at any time, and shall be payable at any time after the expiration of two months from the date of the assessment, so, however, that no such duty shall be assessed more than three years after the expiration of the year for which it is charged.

### Mineral Rights Duty and Provisions as to Minerals

20. (1) *Mineral rights duty*.—There shall be charged, levied, and paid for the financial year ending the thirty-first day of March nineteen hundred and ten, and every subsequent financial year, on the rental value of all rights to work minerals and of all mineral wayleaves, a duty (in this Act referred to as a mineral rights duty) at the rate in each case of one shilling for every twenty shillings of that rental value.

(2) The rental value shall be taken to be—

- (a) Where the right to work the minerals is the subject of a mining lease, the amount of rent paid by the working lessee in the last working year in respect of that right ; and
- (b) Where minerals are being worked by the proprietor thereof, the amount which is determined by the Commissioners to be the sum which would have been received as rent by the proprietor in the last working year if the right to work the minerals had been leased to a working lessee for a term and at a rent and on conditions customary in the district, and the minerals had been worked to the same extent and in the same manner as they have been worked by the proprietor in that year :

Provided that the Commissioners shall cause a copy of their valuation of such rent to be served on the proprietor ; and

- (c) In the case of a mineral wayleave, the amount of rent paid by the working lessee in the last working year in respect of the wayleave :

Provided that if in any special case it is shown to the Commissioners that the rent paid by a working lessee exceeds the rent customary in the district, and partly represents a return for expenditure on the part of any proprietor of the minerals which



would ordinarily have been borne by the lessee, the Commissioners shall substitute as the rental value of the right to work the minerals or the mineral wayleaves, as the case may be, such rent as the Commissioners determine would have been the rent customary in the district if the expenditure had been borne by the lessee.

(3) Every proprietor of any minerals and every person to whom any rent is paid in respect of any right to work minerals or of any mineral wayleave shall, upon notice being given to him by the Commissioners requiring him to give particulars as to the amount received by him in respect of the right or wayleave, as the case may be, and where the proprietor is working the minerals, particulars as to the minerals worked, make a return in the form required by the notice, and within the time, not being less than thirty days, specified in the notice, and in default shall be liable to a penalty not exceeding fifty pounds to be recovered in the High Court.

(4) Mineral rights duty shall be assessed by the Commissioners, and shall be payable at any time after the first day of January in the year for which the duty is charged, and any such duty for the time being unpaid shall be recoverable as a debt due to His Majesty from the proprietor of the minerals, where the proprietor is working the minerals, and in any other case from the immediate lessor of the working lessee. As between the immediate lessor and the working lessee, the duty shall be borne by the immediate lessor, notwithstanding any contract to the contrary, whether made before or after the passing of this Act.

(5) Mineral rights duty shall not be charged in respect of common clay, common brick clay, common brick earth, or sand, chalk, limestone, or gravel:

21. (1) *Deduction of duty in case of intermediate leases of minerals.*—Any immediate lessor who under this Act pays any mineral rights duty, and is himself a lessee of the right to work the minerals or of the wayleave in respect of which the duty is paid, shall be entitled to deduct from the rent paid by him in respect of the right to work the minerals or the wayleave, as the case may be, to his lessor a sum equal to the mineral rights duty on a rental value of the same amount as the rent payable; and any person from whose rent any such deduction is made may make a similar deduction from any rent paid by him in respect of the right to work the minerals or in respect of the wayleave, as the case may be.

(2) Any person in receipt of rent from which a deduction may be made under this section shall allow the deduction, and the person making the deduction shall be discharged from the

payment of an amount of rent equal to the amount deducted, and any contract for the payment of rent without allowing such a deduction shall be void.

(3) If any person refuses to allow a deduction which he is required to allow under this section, he shall be liable to a penalty not exceeding fifty pounds to be recovered in the High Court.

(4) Where in any special case mineral rights duty has been charged on a rental value based on a rent which has been substituted under the provisions of this Act for the rent actually payable by the working lessee, or where in any special case the rental value with reference to which increment value duty is charged has been reduced under the provisions of this Act for the purposes of the collection of that duty, the Commissioners shall, on the application of any lessor from whose rent a deduction may be made in respect of mineral rights duty or increment value duty, as the case may be, make a corresponding substitution or reduction as regards that rent, if they consider that the grounds for the substitution or reduction, as the case may be, are applicable in the case of the rent with respect to which the application is made.

22. (1) *Special provisions as to increment value duty and reversion duty in the case of minerals worked or leased.*—No reversion duty shall be charged on the determination of a mining lease, and no increment value duty shall be charged on the occasion of the grant of a mining lease, or in respect of minerals which are comprised in a mining lease, or are being worked, except as a duty payable annually in manner provided by this Act.

(2) Increment value duty shall not be charged in the case of any minerals which were, on the thirtieth day of April nineteen hundred and nine, either comprised in a mining lease or being worked by the proprietor, so long as the minerals are for the time being either comprised in a mining lease or being worked by the proprietor:

Provided that the exemption under this section shall continue to apply in the case of any minerals, although they cease for a temporary period to be comprised in a mining lease or to be worked, so long as the period does not exceed two years.

(3) Increment value duty in respect of the increment value of minerals which are comprised in a mining lease or are being worked shall, where that duty is chargeable, be charged annually; and the increment value shall, instead of being estimated as a capital sum, be taken to be the sum (if any) by which, in each year during which the lease continues or the minerals are being

worked, as the case may be, the rental value on which mineral rights duty is charged in respect of the right to work the minerals exceeds the annual equivalent of the original capital value of the minerals, or the last preceding occasion on which increment value duty has been collected otherwise than as an annual duty, if increment value duty has been so collected before the minerals have become comprised in a mining lease or have commenced to be worked; and the annual equivalent of any such capital value of the minerals shall be taken to be two twenty-fifth parts of that capital value.

(4) If in any case it is shown to the Commissioners that the rental value on which mineral rights duty is charged represents in part a return for money expended within fifteen years by a lessor in boring or otherwise proving the minerals, the rental value shall be reduced for the purposes of the collection of increment value duty by the amount which represents that return.

(5) Increment value duty payable annually under this section shall, instead of being collected as provided by this Act in other cases, be recoverable in the same manner as mineral rights duty, with the same right of deduction.

(6) Any proprietor or lessor of any minerals who pays increment value duty in pursuance of this provision shall be entitled to be relieved in any year from the payment of mineral rights duty, as such proprietor or lessor, up to the amount paid by him in that year in respect of increment value duty.

For the purposes of this provision, a deduction of any amount from the rent payable to a lessor on account of mineral rights duty shall be deemed to be a payment of that duty, and the relief may be given either by allowance or repayment or both of those means, as the occasion may require.

(7) Where minerals cease to be comprised in a mining lease or to be worked within the meaning of this section, the capital value of the minerals at the time shall be specially ascertained in accordance with the provisions of this Act, and the capital value as so ascertained shall be treated as the original capital value of the minerals.

(8) Nothing in this section shall apply to minerals which are exempt from mineral rights duty under this Act.

23. (1) *Application of provisions as to total and site value of minerals.*—For the purposes of this Part of this Act, the total value of minerals means the amount which the fee simple of the minerals, if sold in the open market by a willing seller in their then condition, might be expected to realise, and the capital value of minerals means the total value, after allowing such deduction (if

any) as the Commissioners may allow for any works executed or expenditure of a capital nature incurred *bona fide* by or on behalf of any person interested in the minerals for the purpose of bringing the minerals into working, or where the minerals have been partly worked, such deduction as is, in the opinion of the Commissioners, proportionate to the amount of minerals which have not been worked.

(2) For the purposes of valuation under this Part of this Act, all minerals shall be treated as a separate parcel of land; but, where the minerals are not comprised in a mining lease or being worked, they shall be treated as having no value as minerals, unless the proprietor of the minerals, in his return furnished to the Commissioners, specifies the nature of the minerals and his estimate of their capital value.

Minerals which are comprised in a mining lease or are being worked shall be treated as a separate parcel of land, not only for the purposes of valuation, but also for the purpose of the assessment of duty under this Part of this Act.

(3) The provisions of this Part of this Act with respect to valuation shall not apply to minerals which were, on the thirtieth day of April nineteen hundred and nine, either comprised in a mining lease or being worked by the proprietor, so long as they are for the time being either comprised in a mining lease or being worked by the proprietor, nor shall such provisions apply to any minerals which cease for a temporary period to be comprised in a mining lease or to be worked, so long as the period does not exceed two years.

(4) Except where the context otherwise requires, any references in this Part of this Act to the site value of land shall, in cases where the land consists solely of minerals, or comprises minerals, be construed, so far as respects the minerals, as a reference to the capital value of the minerals.

24. *Definitions for purpose of mineral provisions.*—For the purpose of the provisions of this Act as to minerals—

The expression “proprietor” means the person for the time being entitled in possession to the minerals, or to the rents and profits thereof, or any part of those rents and profits, but does not include a person entitled as lessee, other than a person entitled to the possession of land comprised in a lease for any long term of years to which sec. 65 of the Conveyancing and Law of Property Act, 1881, applies;

The expression “rent” includes yearly or other rent, and shall, in addition to the meaning assigned to it for the

general purposes of this Part of this Act, be construed as including any fine, premium, or foregift, and any payment, consideration, or benefit in the nature of a fine, premium, or foregift ;

Where any rent is paid or rendered otherwise than in money or money's worth, the amount of the rent shall be taken to be such sum as the Commissioners consider to be the value thereof ;

The expression " mining lease " means a lease for mining purposes, that is, for searching for, winning, working, getting, making merchantable, carrying away, or disposing of, mines and minerals, or purposes connected therewith, and includes an agreement for such lease, or any tenancy or licence, whether by deed, parol, or otherwise for mining purposes, and the expressions " lessor " and " lessee " shall in addition to the meaning assigned to them for the general purposes of this Part of this Act be construed so as to include respectively a licencer and a licensee ;

The expression " working lessee " means as respects the right to work minerals the lessee who is actually working the minerals, or who would have the right actually to work the minerals if the minerals were worked, and as respects mineral wayleaves the lessee who is in actual enjoyment of the wayleave, and the expression " immediate lessor " shall be construed accordingly ;

The expression " working year " means the year ending the thirtieth day of September, or such other day as may in any case be approved by the Commissioners ; and the expression " last working year " means the working year completed immediately before the first day of January in any financial year for which the duty is paid ;

The expression " mineral wayleave " means any wayleave, air-leave, water-leave, or right to use a shaft granted to or enjoyed by a working lessee, whether above or under ground, for the purpose of access to or the conveyance of the minerals, or the ventilation or drainage of his mine or otherwise in connection with the working of the minerals.

Where any minerals are at any time being worked by means of any colliery, mine, quarry, or open working, all the minerals which belong to the same proprietor, if the minerals are being worked by the proprietor, or which the lessee has power to work if the minerals are being

worked by a lessee, and which would in the ordinary course of events be worked by the same colliery, mine, quarry, or open working, shall be deemed to be minerals which are being worked at that date.

Minerals which are being won for the purpose of being immediately worked shall be deemed to be minerals which are being worked.

Minerals shall be deemed to be comprised in a mining lease if the right to work the minerals is the subject of a mining lease, or if the minerals are being worked under the terms of such a lease, although the lease has expired.

Where the circumstances of a district are such that in the opinion of the Commissioners it is impracticable to fix any sum which satisfactorily represents a rent customary in the district, the rent which would be paid under similar circumstances and ordinary conditions elsewhere than in the district shall be substituted for the rent customary in the district.

### Valuation for Purposes of Duties on Land Values

25. (1) *Definition of values of land.*—For the purposes of this Part of this Act the gross value of land means the amount which the fee simple of the land, if sold at the time in the open market by a willing seller in its then condition, free from incumbrances, and from any burden, charge, or restriction (other than rates or taxes), might be expected to realise.

(2) The full site value of land means the amount which remains after deducting from the gross value of the land the difference (if any) between that value and the value which the fee simple of the land, if sold at the time in the open market by a willing seller, might be expected to realise if the land were divested of any buildings, and of any other structures (including fixed or attached machinery) on, in, or under the surface, which are appurtenant to or used in connection with any such buildings, and of all growing timber, fruit trees, fruit bushes, and other things growing thereon.

(3) The total value of the land means the gross value after deducting the amount by which the gross value would be diminished if the land were sold subject to any fixed charges and to any public rights of way or any public rights of user, and to any right of common and to any easements affecting the land, and to any covenant or agreement restricting the use of the land

entered into or made before the thirtieth day of April nineteen hundred and nine, and to any covenant or agreement restricting the use of the land entered into or made on or after that date, if, in the opinion of the Commissioners, the restraint imposed by the covenant or agreement so entered into or made on or after that date was when imposed desirable in the interests of the public, or in view of the character and surroundings of the neighbourhood, and the opinion of the Commissioners shall in this case be subject to an appeal to the referee, whose decision shall be final.

(4) The assessable site value of land means the total value after deducting—

- (a) The same amount as is to be deducted for the purpose of arriving at full site value from gross value ; and
- (b) Any part of the total value which is proved to the Commissioners to be directly attributable to works executed, or expenditure of a capital nature (including any expenses of advertisement) incurred *bona fide* by or on behalf of or solely in the interests of any person interested in the land for the purpose of improving the value of the land as building land, or for the purpose of any business, trade, or industry other than agriculture ; and
- (c) Any part of the total value which is proved to the Commissioners to be directly attributable to the appropriation of any land or to the gift of any land by any person interested in the land for the purpose of streets, roads, paths, squares, gardens, or other open spaces for the use of the public ; and
- (d) Any part of the total value which is proved to the Commissioners to be directly attributable to the expenditure of money on the redemption of any land tax, or any fixed charge, or on the enfranchisement of copyhold land or customary freeholds, or on effecting the release of any covenant or agreement restricting the use of land which may be taken into account in ascertaining the total value of the land, or to goodwill or any other matter which is personal to the owner, occupier, or other person interested for the time being in the land ; and
- (e) Any sums which, in the opinion of the Commissioners, it would be necessary to expend in order to divest the land of buildings, timber, trees, or other things of which it is to be taken to be divested for the purpose of arriving at the full site value from the gross value

of the land, and of which it would be necessary to divest the land for the purpose of realising the full site value.

Where any works executed or expenditure incurred for the purpose of improving the value of the land for agriculture have actually improved the value of the land as building land, or for the purpose of any business, trade, or industry other than agriculture, the works or expenditure shall, for the purpose of this provision, be treated as having been executed or incurred also for the latter purposes.

Any reference in this Act to site value (other than the reference to the site value of land on an occasion on which increment duty is to be collected) shall be deemed to be a reference to the assessable site value of the land as ascertained in accordance with this section.

(5) The provisions of this section are not applicable for the purpose of the valuation of minerals.

26. (1) *Valuation of land for purposes of Act.*—The Commissioners shall, as soon as may be after the passing of this Act, cause a valuation to be made of all land in the United Kingdom, showing separately the total value and the site value respectively of the land, and in the case of agricultural land the value of the land for agricultural purposes where that value is different from the site value. Each piece of land which is under separate occupation, and, if the owner so requires, any part of any land which is under separate occupation, shall be separately valued, and the value shall be estimated as on the thirtieth day of April nineteen hundred and nine.

(*This sub-section is amended by Section 5 of the Revenue Act, 1911. See p. 299.*)

(2) Any owner of land and any person receiving rent in respect of any land shall, on being required by notice from the Commissioners, furnish to the Commissioners a return containing such particulars as the Commissioners may require as to the rent received by him, and as to the ownership, tenure, area, character, and use of the land, and the consideration given on any previous sale or lease of the land, and any other matters which may properly be required for the purpose of the valuation of the land, and which it is in his power to give, and if any owner of land or person receiving any rent in respect of the land is required by the Commissioners to make a return under this section, and fails to make such a return within the time, not being less than thirty days, specified in the notice requiring a return, he shall be liable



to a penalty not exceeding fifty pounds to be recoverable in the High Court.

(3) Any owner of land may, if he thinks fit, furnish to the Commissioners his estimate of the total value or site value or both of the land, and the Commissioners, in making their valuation, shall consider any estimate so furnished.

27. (1) *Ascertainment of the original site value of land.*—The Commissioners shall cause a copy of their provisional valuation of any land to be served on the owner of the land, and, unless objection is taken to the provisional valuation in manner provided by this section, the values shown in the provisional valuation shall be adopted as the original total value and the original site value respectively for the purposes of this Part of this Act.

(2) If the owner considers that the total or site value, as stated in any provisional valuation, is not correct, he may, with a view to an amendment of the provisional valuation, within sixty days of the date on which the copy of the provisional valuation is served, or such extended time as the Commissioners may in any special case allow, give to the Commissioners notice of objection to the provisional valuation, stating the grounds of his objection and the amendment he desires, and, if the Commissioners amend the provisional valuation so as to be satisfactory to all persons making objections, the total and site value as stated in the amended valuation shall be adopted as the original total and the original site value for the purposes of this Part of this Act.

(3) The Commissioners may amend any provisional valuation, whether objected to or not, before it is finally settled, and the amended provisional valuation shall be deemed to be a provisional valuation for the purposes of this section.

(4) If the provisional valuation is not amended by the Commissioners so as to be satisfactory to any objector, that objector may give a notice of appeal under this Act with respect to the valuation, but, if no such notice is given, the total site value as stated in the provisional valuation, subject to such amendments as may be made by the Commissioners in order to meet objections, shall be adopted as the original total and the original site value respectively for the purposes of this Part of this Act.

(5) Any person interested in the land, not being an owner, may apply to the Commissioners for a copy of the provisional valuation of the land before it is finally settled, and shall then have the same right of giving notice of objection and of appealing as the owner.

(6) Where the value to be adopted as the original total or the original site value of any land for the purposes of this Part of this Act has not been finally settled at the time when any duty under this Part of this Act becomes leviable, any duty under this Part of this Act shall be assessed as if the values as shown in the provisional valuation, or, if the provisional valuation has been amended by the Commissioners, as shown in the valuation as so amended, were the values adopted as the original total and site values for the purposes of this Part of this Act, and, on the values to be adopted being finally settled, if it is found that the amount which should have been paid as duty exceeds that actually paid, the excess shall be deemed to be arrears of the duty, except so far as any penalty is incurred on account of arrears, and, if it is found that the amount which should have been paid as duty is less than that actually paid, the difference shall be repaid by the Commissioners.

(7) Where a lessee is the owner of the land within the meaning of this Act, this section shall apply as if any person entitled to the fee simple reversion or to a leasehold reversion for a term of years exceeding twenty-one were the owner as well as the lessee.

28. *Periodical valuation of undeveloped land.*—For the purpose of obtaining a periodical valuation of undeveloped land the Commissioners shall, in the year nineteen hundred and fourteen, and in every subsequent fifth year, cause a valuation to be made of undeveloped land showing the site value of the land as on the thirtieth day of April in that year, and, for the purpose of ascertaining the value at that time, the provisions of this Act as to the ascertainment of value shall apply for the purpose of ascertaining value on any such periodical valuation as they apply for the purpose of ascertaining the original value :

Provided that if on any such periodical valuation the valuation of any undeveloped land which is liable to undeveloped land duty is for any reason begun but not completed in the year of valuation, the Commissioners may complete the valuation after the expiration of the year of valuation, subject to an appeal under this Act.

29. (1) *Assessment of duty on separate parcels of land and apportionment of valuation.*—Any duty under this Part of this Act may be assessed on or in respect of any such pieces of land, whether under separate occupation or not, as the Commissioners think fit.

(2) The Commissioners shall make such apportionments and reapportionments of any original site value or any site value fixed on a periodical valuation as they consider necessary for the

purpose of the collection or assessment of increment value duty or undeveloped land duty, or which they may be required at any time to make on the application of any person entitled to the fee simple of any land or to an interest in any land.

On any such apportionment or reapportionment for the purpose of the collection of increment value duty on the occasion of the transfer on sale of the fee simple of the land or any interest in the land, or on the occasion of the grant of any lease of the land, the consideration for the transfer, or for the grant of the lease, shall be treated as one of the matters to which regard must be had in making the apportionment or reapportionment.

(3) The provisions relating to the procedure on the valuation of and for the purposes of this Part of this Act shall apply with respect to the apportionment or reapportionment of the site value under this section as they apply with reference to the ascertainment of the original site value of land.

(4) The value attributed on any such apportionment or reapportionment to each part of the land shall, for the purposes of this Part of this Act, be treated as the original site value or the site value of the land, as the case may be.

30. (1) *Duties of Commissioners as to keeping records and giving information.*—The Commissioners shall record particulars of all valuations, apportionments, reapportionments, and assessments made by them under this Part of this Act, and of any deductions allowed in determining any value, and of the amount of any duty paid under this Part of this Act in respect of any land.

(2) The Commissioners shall furnish to any person interested in any land, or to any person authorised by any person so interested, on his application and on payment of such fee, not exceeding two shillings and sixpence, as the Commissioners may fix with the approval of the Treasury, copies of any particulars so recorded by them relating to the land, certified, if required, by a Secretary or Assistant Secretary to the Commissioners.

31. (1) *Information as to names of owners of land.*—Every person who pays rent in respect of any land, and every person who, as agent for another person, receives any rent in respect of any land, shall, on being required by the Commissioners, furnish to them within thirty days the name and address of the person to whom he pays rent or on behalf of whom he receives rent, as the case may be.

(2) For the purpose of the exercise of their powers or the performance of their duties under this Part of this Act in reference to the valuation of land, the Commissioners may give any general or special authority to any person to inspect any land and report

to them the value thereof, and the person having the custody or possession of that land shall permit the person so authorised, on production of the authority of the Commissioners in that behalf, to inspect it at such reasonable times as the Commissioners consider necessary.

(3) If any person wilfully fails to comply with the provisions of this section, he shall be liable to a penalty not exceeding fifty pounds to be recoverable in the High Court.

(4) Any notice requiring a return for the purpose of valuation, any copy of a provisional valuation, and any other notice or document which is required to be given or sent to an owner or a person interested in land under this Part of this Act by the Commissioners shall be sufficiently given or sent if sent by post to the address of the owner or person interested furnished to the Commissioners, under the powers given by this section, or, if the address cannot be so ascertained, by leaving the notice or a copy of the document addressed to the owner or person interested with some occupier of the land, or, if there is no occupier, by causing it to be put up in some conspicuous place on the land.

32. (1). *Determination of value of consideration.*—Where the value of any consideration for a transfer or lease is to be determined for the purposes of this Part of this Act, that value shall, so far as the consideration consists of the payment of a capital sum, be taken to be the amount of that capital sum, and, so far as the consideration consists of a periodical money payment, be taken to be such sum as appears to the Commissioners to be the capital value of that payment.

(2) If the Commissioners are satisfied that any covenant or undertaking or liability to discharge any incumbrance, or, in cases where a nominal rent only has been reserved, any covenant or undertaking to erect buildings, or to expend any sums upon the property, has formed part of the consideration, the Commissioners shall allow such sum as they think just in respect thereof as an addition to the value of the consideration.

(3) Where it is necessary to apportion any consideration for the purposes of this Part of this Act as between properties included in any transfer or lease, the consideration shall be apportioned by the Commissioners in such manner as they determine.

## Appeals

(See also Section 7 of Revenue Act, 1911, on p. 300.)

33. (1) *Appeals to referees.*—Except as expressly provided in this Part of this Act, any person aggrieved may appeal within such time and in such manner as may be provided by rules made

under this section against the first or any subsequent determination by the Commissioners of the total value or site value of any land ; or against the amount of any assessment of duty under this Part of this Act ; or against a refusal of the Commissioners to make any allowance or to make the allowance claimed, where the Commissioners have power to make such an allowance under this Part of this Act ; or against any apportionment of the value of land or of duty or any assessment or apportionment of the consideration on any transfer or lease made by the Commissioners under this Part of this Act ; or against the determination of any other matter which the Commissioners are to determine or may determine under this Part of this Act :

Provided that—

(a) an appeal shall not lie against a provisional valuation made by the Commissioners of the total or site value of any land, except on the part of a person who has made an objection to the provisional valuation in accordance with this Act ; and

(b) the original total value and the original site value and the site value as ascertained under any subsequent valuation shall be questioned only by means of an appeal against the determination by the Commissioners of that value where there is an appeal under this Act, and shall not be questioned in any case on an appeal against an assessment of duty.

(2) An appeal under this section shall be referred to such one of the panel of referees appointed under this Part of this Act as may be selected in manner provided by rules under this section, and the decision of the referee to whom the matter is so referred shall be given in the form provided by rules under this section, and shall, subject to appeal to the Court under this section, be final.

(3) The referee shall determine any matter referred to him in consultation with the Commissioners and the appellant, or any persons nominated by the Commissioners and the appellant respectively for this purpose, and may, if he thinks fit, order that any expenses incurred by the appellant be paid by the Commissioners, and that any such expenses incurred by the Commissioners be paid by the appellant.

Any order of the referee as to expenses may be made a rule of the High Court.

(4) Any person aggrieved by the decision of the referee may appeal against the decision to the High Court within the time and in the manner and on the conditions directed by rules of

court (including conditions enabling the Court to require the payment of or the giving of security for any duty claimed); and sub-secs. 2, 3, and 4 of sec. 10 of the Finance Act, 1894, shall apply with reference to any such appeal:

Provided that where the total or site value as alleged by the Commissioners of the property in respect of which the dispute arises does not exceed five hundred pounds, the appeal under this section may be to the County Court for the county or place in which the appellant resides or the property is situate, and this section shall for the purpose of the appeal apply as if such County Court were the High Court, and in every such case any party shall have a right of appeal to the Court of Appeal.

(See also *Section 7 of the Finance Act, 1911*. See p. 300.)

(5) Provision shall be made by rules under this section with respect to the time within which and the manner in which an appeal may be made to a referee under this section, and with respect to the mode in which the referee to whom any reference is to be made is to be selected, and with respect to the form in which any decision of a referee is to be given, and with respect to any other matter for which it appears necessary or expedient to provide in order to carry this section into effect.

Those rules shall be made by the Reference Committee, subject to the approval of the Treasury.

The Reference Committee for England shall consist of the Lord Chief Justice of England, the Master of the Rolls, and the President of the Surveyors' Institution.

The Reference Committee for Scotland shall consist of the Lord President of the Court of Session, the Lord Justice Clerk, and the Chairman of the Scottish Committee of the Surveyors' Institution.

The Reference Committee for Ireland shall consist of the Lord Chief Justice of Ireland, the Master of the Rolls in Ireland, and the President of the Surveyors' Institution.

The President of the Surveyors' Institution may, if he thinks fit, appoint any person, being a member of the council of that institution and having special knowledge of valuation in Ireland, to act in his place as a member of the Reference Committee in Ireland.

34. (1) *Appointment of referees to hear appeals*.—Such number of persons, being persons who have been admitted Fellows of the Surveyors' Institution, or other persons having experience in the valuation of land as may be appointed for England, Scotland, and Ireland respectively, by the Reference Committee, shall form a panel of persons to act as referees for the purposes of this Part of this Act in England, Scotland, and Ireland respectively

and persons having experience in the valuation of minerals shall be included in each panel.

(2) There shall be paid out of moneys provided by Parliament to every referee appointed under this section such fees or remuneration as the Treasury direct.

### Supplemental

35. (1) *Exemption for land held by rating authorities.*—No duty under this Part of this Act shall be charged in respect of any land or interest in land held by or on behalf of a rating authority, or any statutory combination representative of two or more local or rating authorities, and any increment value duty in respect of any such land which would have been collected from the authority (whether on the occasion of the transfer on sale of the land, or any interest in the land, or the grant of a lease of the land, or on the periodical occasions provided in this Act) shall, for the purposes of the provisions of this Act as to the collection of increment value duty, be deemed to have been paid.

(2) For the purposes of this section the expression "rating authority" means any body who have power to raise a rate or administer money raised by a rate; and the expression "rate" means a rate the proceeds of which are applicable to public local purposes, and which is leviable on the basis of an assessment in respect of the yearly value of property, and includes any sum which, though obtained in the first instance by a precept, certificate, or other instrument, requiring payment from some authority or officer, is or can be ultimately raised out of a rate as before defined.

36. *Deduction from increment value of sum paid to rating authority in respect of increase in value.*—Where in pursuance of any public, general, or local Act any capital sum or any instalment of a capital sum has been paid to any rating authority in respect of the increased or enhanced value of any land due to any improvements made or other action taken by the authority, the amount of that capital sum or instalment shall be deducted from any increment value of the land for the purposes of the collection of increment value duty, and from the site value of the land for the purposes of the collection of undeveloped land duty, and from the value of the benefit accruing to the lessor for the purposes of reversion duty, and in the case of increment value duty the duty on the amount deducted shall be deemed to have been paid.

37. (1) *Special provision for land held for charitable purposes, etc.*—No reversion duty or undeveloped land duty under this

Part of this Act shall be charged in respect of land or any interest in land held by or on behalf of any governing body constituted for charitable purposes while the land is occupied and used by such a body for the purposes of that body, and increment value duty shall not be collected on any periodical occasion in respect of the fee simple of or any interest in any land held for the purposes of such a body, whether it is occupied or used by that body or not, without prejudice, however, to the collection of the duty on any other occasion.

The expression "governing body constituted for charitable purposes" includes any person or body of persons who have the right of holding, or any power of government of, or management over, any property appropriated for charitable purposes (including property appropriated for the purpose of any of the naval or military forces of the Crown), and includes any corporation sole and all universities, colleges, schools, and other institutions for the promotion of literature, science, or art.

(2) This section shall apply to the fee simple of, or any interest in, any land held by a registered society or by a company within the meaning of the Companies (Consolidation) Act, 1908, or any body of persons incorporated by special Act, if that company or body are by their memorandum or Act precluded from dividing any profit amongst their members, as if the purposes of the society, company, or body of persons were charitable purposes.

In this provision the expression "registered society" means any society or body of persons who are registered, or whose rules are certified or registered, by a registrar of friendly societies in pursuance of any Act of Parliament, and who by their rules make provision for the benefits set out in section eight, sub-section one, of the Friendly Societies Act, 1896, and where the contract between the society and the member is of a permanent character.

38. (1) *Special provision for statutory companies.*—Neither increment value duty, reversion duty, nor undeveloped land duty shall be charged in respect of any land whilst it is held by a statutory company for the purposes of their undertaking, and cannot be appropriated by the company except to those purposes; but nothing in this provision shall prevent the collection of increment value duty when any such land is sold or ceases to be so held.

This provision shall not be construed so as to exclude from the benefit thereof land held by a statutory company which is intended to be ultimately appropriated for the purpose of works forming or to form part of the company's undertaking, but, pending the carrying out of those works, is used for other purposes.

(2) The Commissioners shall not require a statutory company to make any returns with respect to any such land for the purpose



of the provisions of this Part of this Act as to valuation other than as to the actual cost to the company of the land, and that cost shall, for the purposes of this Part of this Act, be substituted for the original site value of the land.

(3) For the purposes of the Lands Clauses Acts, as incorporated with any special Act, the amount (if any) payable by the transferrer as increment value duty shall not be treated as part of the costs or expenses of a conveyance of land, and shall not be taken into account in assessing the compensation to be paid to the transferrer.

(4) For the purposes of this section the expression "statutory company" means any railway company, canal company, dock company, water company, or other company who are for the time being authorised under any special Act to construct, work, or carry on any railway, canal, dock, water, or other public undertaking, and includes any person or body of persons so authorised; and the expression "special Act" includes any Provisional Order or order having the force of an Act of Parliament.

39. (1) *Power to charge duty on land in certain cases.*—Where the fee simple of any land or any interest in land, in respect of which increment value duty or reversion duty is charged, is settled land within the meaning of the Settled Land Act, 1882, or is vested in a trustee, and the tenant for life, or persons having the powers of a tenant of life, or the trustee, is the person who is liable to pay any sums on account of either of these duties, he shall be entitled to charge by deed upon the land or interest in land any amount paid by him, or which he may then be or may thereafter become liable to pay, in respect of either of these duties, and the amount of any expenditure which he may have reasonably incurred in connection with the valuation, and the benefit of any such charge, may be transferred in like manner as a mortgage.

(2) In the case of settled land a deed executed for the purposes of this section shall not take effect until notice thereof has been given to the trustees of the settlement for the purposes of the Settled Land Act, 1882.

(3) Secs. 59, 60, and 62 of the Settled Land Act, 1882 (which relate to the exercise of powers on behalf of infants and lunatics), shall apply to the exercise of the power under this section in the same manner as they apply to the exercise of the powers of a tenant for life under that Act.

(4) Where the fee simple of any land, or any interest in land in respect of which increment value duty or reversion duty is charged, is vested in a mortgagee who is liable to pay any sum on account of either of those duties, he shall be entitled to add

to his security the sum for which he is so liable, including any costs or expenses properly incurred by him in respect of the payment of the duty.

(5) In Scotland, where any person having a limited interest in the land or interest in land in respect of which any duty under this Part of this Act is charged, is the person who is liable to pay any sums on account of the duty, he shall be entitled to charge such land or such interest in land by means of a bond and disposition or bond and assignation in security in his own favour which he is hereby authorised to grant.

40. *Application of Part I. to copyholds.*—The following provisions shall have effect with respect to the application of this Part of this Act to copyholds, including customary freeholds:—

(i) In the case of copyholds of inheritance, and copyholds held for a life or lives, or for years where the tenant has a right of renewal, and customary freeholds—

(a) The total and site values of the land shall be ascertained as if the land were freehold land, subject to a deduction of such an amount as is proved to the Commissioners to be equal to the amount which it would cost to enfranchise the land;

(b) References to the fee simple of land shall be treated as references to the whole copyhold or customary interest or estate;

(c) In the definition of “owner,” a reference to the person entitled to the rents and profits of the land as tenant by copy of court roll or customary tenure shall be substituted for the reference to the person entitled to the rents and profits of the land in virtue of an estate of freehold:

(2) In the case of copyhold land held for a life or lives, or for years where the tenant has not a right of renewal, this Part of this Act shall have effect as if the land were freehold land and the copyhold interest were a leasehold interest.

41. *Definitions.*—In this Part of this Act, unless the context otherwise requires—

The expression “land” does not include any incorporeal hereditament issuing or granted out of the land;

The expression “rent-charge” means tithe or tithe rent-charge, or other periodical payment or rendering in lieu

of or in the nature of tithe, or any fee farm rent, rent seck, quit-rent, chief-rent, rent of assize, or any other perpetual rent or annuity granted out of land ;

The expression "rent" has the same meaning as in the Conveyancing and Law of Property Act, 1881, and does not include a rent charge ;

The expression "lease" includes an under-lease and an agreement for a lease or under-lease, but does not include a term of years created solely for the purpose of securing money until the term becomes vested in some person free from any equity of redemption ;

The term of a lease shall, where the lease contains an obligation to renew the lease, be deemed to be the period for which the lease may be renewed, and, in the case of a lease for life or lives, shall be deemed to be a number of years equal to the mean expectation of life of the person for whose life the lease is granted, or, in the case of a lease granted for lives, of the youngest of the persons for whose lives the lease is granted, and a lease renewed in pursuance of such an obligation shall not on its renewal be deemed to be determined ;

The expression "interest" in relation to land includes any undivided share in a fee simple in possession and includes a reversion expectant on the determination of a lease, but does not include any other interest in expectancy or an incumbrance as defined by this Act or any fixed charge as defined by this Act or any purely incorporeal hereditament or any leasehold interest under a lease for a term of years not exceeding fourteen years or any tenancy which is, or is deemed to be, subject to statutory conditions under the Land Law (Ireland) Acts ;

The expression "incumbrance" includes a mortgage in fee or for a less estate, and a trust for securing money, and a lien, and a charge of a portion, annuity, or any capital or annual sum, but does not include a fixed charge as defined by this Act ;

The expression "fixed charge" means any rent-charge as defined by this Act, and any burden or charge (other than rates or taxes) arising by operation of law or imposed by any Act of Parliament, or imposed in pursuance of the exercise of any powers or the performance of any duties under any such Act, otherwise than by a person interested in the land or in consideration of any advance to any person interested in the land ;

The expression "fee simple" means the fee simple in possession not subject to any lease, but does not include an undivided share in a fee simple in possession ;

The expression "owner" means the person entitled in possession to the rents and profits of the land in virtue of any estate of freehold, except that where land is let on lease for a term of which more than fifty years are unexpired, the lessee under the lease, or if there are two or more such leases the lessee under the last created under-lease, shall be deemed to be the owner instead of the person entitled to the rents and profits as aforesaid ;

The expressions "lessor" and "lessee" include an under-lessee and under-lessee ; and the expression "lessor" includes the person for the time being entitled to the reversion, whether freehold or leasehold, expectant on the determination of the lease ; and the expression "lessee" includes executors, administrators, and assigns of the lessee ;

The expression "transferrer" and "lessor" do not include any persons who join in the execution of the instrument by which the transfer or lease is effected, or agreed to be effected, for the purpose only of conveying any estate vested in them as trustees or incumbrancers, or of acknowledging the receipt of the consideration money, or of giving consent, and sections fifty-nine, sixty, and sixty-two of the Settled Land Act, 1882 (which relate to the exercise of powers on behalf of infants and lunatics), shall apply to the exercise of the powers of an owner under this Part of this Act in the same manner as they apply to the exercise of the powers of a tenant for life under that Act ;

The expression "agriculture" includes the use of land as meadow or pasture land or orchard or osier or woodland, or for market gardens, nursery grounds, or allotments, and the expression "agricultural land" shall be construed accordingly.

42. *Application of Part I. to Scotland.*—In the application of this Part of this Act to Scotland, unless the context otherwise requires,—

- (1) The expression "land" does not include teinds, titles or offices of honour, or any servitude, superiority, casualty, feu duty, or ground annual or any incorporeal heritable right ;

The expression "rent" includes yearly or other rent, toll, duty, royalty, or other reservation by the acre, the ton, or otherwise; and, for the purpose of section thirty-one of this Act, includes feu duty and ground annual;

The expression "rent-charge" includes feu duty and ground annual;

The expression "interest" in relation to land includes the landlord's right of reversion to the subjects let on the determination of the lease, but does not include teinds, servitudes, superiorities, any interest in expectancy, whether vested or not, heritable securities, bonds of provision, jointures, annuities, or other capital or annual sums, or other debts secured upon heritage, or any sporting right, or any lease thereof;

The expression "owner" means the fiar of the land, except that where land is let on lease for a term of which more than fifty years are unexpired, the tenant under the lease shall be deemed to be the owner, and includes an institute or heir of entail in possession;

The expression "freeholder" includes "fiar," "life-renter of land settled within the meaning of the Finance Act, 1894," and "institute or heir of entail in possession," and the expression "freehold" shall be construed accordingly;

The expression "incumbrance" includes any heritable security, or other debt or payment secured upon heritage, and the expression "incumbrancer" shall be construed accordingly;

"Servitudes" shall be substituted for "easements," and shall be deemed to include public rights;

"Local Government Board for Scotland" shall be substituted for "Local Government Board";

The expression "borough or urban district" means a royal, parliamentary, or police burgh;

A reference to an appeal to quarter sessions shall not apply;

"Court of Session" shall be substituted for "High Court";  
Provided that, for the purposes of appeals from the decisions of referees, the judges of the Court of Session named for the purpose of hearing appeals under the Valuation of Lands (Scotland) Acts shall be substituted for the High Court, subject to such regulations as may be prescribed by Act of Sederunt, and the appeal from such judges shall be to the House of Lords, and in

sub-sections (2), (3), and (4) of section ten of the Finance Act, 1894, as applied with reference to any such appeal, the said judges shall be substituted for the High Court. "Sheriff Court" shall be substituted for "County Court," and there shall be an appeal from the Sheriff Court to the said judges, whose decision in such case shall be final.

- (2) Any order of a referee as to expenses shall be enforceable as a recorded decree arbitral.
- (3) Sub-section (2) of section two of this Act shall be construed as if after paragraph (d) thereof the following paragraph were added (that is to say):—

(e) where the occasion is the grant of any feu of the land or the creation of any ground annual thereon the value of the fee simple of the land calculated on the basis of the value of the consideration for such grant or creation, by way of feu duty, ground annual, or otherwise.

Where increment value duty falls to be collected on a feu contract or feu charter or a contract of ground annual, it shall be paid by the person by whom or on whose behalf the feu is granted or the ground annual is created, and, for the purposes of this Part of this Act, that person shall be deemed to be the transferrer or the transferrer on sale and the contract or charter to be the instrument, and the expressions "transfer" and "transfer on sale" shall be construed accordingly.

The expressions "lessor" and "lessee" include a sub-lessor and sub-lessee and the heirs, executors, administrators, and assigns of a lessor and lessee respectively.

- (4) Where arrangements are made under section four of this Act for dispensing with the presentation of any instrument or particulars thereof, it shall be the duty of the keeper of the general register of sasines, and of the respective keepers of burgh or other local registers, to furnish to the Commissioners particulars of instruments presented for registration or registered in their respective registers as may be prescribed by regulations of the Commissioners, and in such case the provisions of sub-section (3) of section four shall not apply.

## REVENUE ACT, 1911

[1 GEO. 5. CH. 2]

*(So far as it relates to Land Values)*

## ARRANGEMENT OF SECTIONS

## PART I.—DUTIES ON LAND VALUES

Section

1. Avoidance of contracts for payment of increment value duty by transferee or lessee.
2. Amendment of sec. 2 (3) of the principal Act.
3. Explanation and amendment of law as to reversion duty.
4. Amendment of sec. 16 (2) (b) of the principal Act.
5. Amendment of sec. 26 (1) of the principal Act.
6. Saving in respect of the payment of increment value duty by certain statutory companies.
7. Right of Commissioners of Inland Revenue to appeal against decision of referee.

## PART I.—DUTIES ON LAND VALUES

1. *Avoidance of contracts for payment of increment value duty by transferee or lessee.*—Any contract made after the passing of this Act between a transferrer and transferee or a lessor and lessee for the payment by the transferee or lessee, as the case may be, of increment value duty, or any expenses incurred in connection with the payment or assessment of the duty, or for the repayment or reimbursement by the transferee or lessee to the transferrer or lessor in any manner of any payments made by the transferrer or lessor in respect of that duty or any such expenses, shall be void.

2. *Amendment of sec. 2 (3) of the principal Act.*—Sub-sec. (3) of sec. 2 of the principal Act (which relates to the definition of increment value) shall apply to the case of any transfer on sale of the fee simple of the land or of any interest in the land which took place twenty years or more before the thirtieth day of April nineteen hundred and nine, and which was a transfer to the person who is the owner of the land or any interest in the land at the time when an application is made under that provision, as it applies to the case of a transfer on sale which took place within twenty years before the thirtieth day of April, nineteen hundred and nine.

In the case where the original site value has been finally settled before the passing of this Act, an application may be

made, notwithstanding anything in sub-sec. (3) of sec. 2 of the principal Act, under that sub-section, for the purpose of giving effect to this provision within three months after the date of the passing of this Act, and the Commissioners shall, in such a case, alter the original site value as finally settled in such manner (if any) as may be necessary to give effect to the amendment made by this provision, and, in cases where any amount has been paid on account of duty, the Commissioners shall make such repayment as may be necessary to adjust the amount paid to any alteration of value made in pursuance of this provision.

3. *Explanation and amendment of law as to reversion duty.*—

(1) It is hereby declared that in relation to a lease which has determined the person in whom the lessor's interest was vested immediately before the expiration of the term for which the lease was granted, or, if the lease has determined before that time, immediately before the transaction or event in consequence of which the lease has determined, is the lessor for the purpose of sec. 15 of the Finance (1909-1910) Act, 1910 (in this Act referred to as the principal Act), and is the person to whom any benefit accrues from or by reason of the determination of the lease for the purpose of the other provisions of that Act relating to reversion duty.

(2) Where, whether before or after the passing of this Act, a lease of any land determines on the vesting of the lessor's interest and the lessee's interest in the same person before the expiration of the term for which the lease was granted, the amount of the reversion duty (if any) payable shall not be the full duty, but such an amount as would, with compound interest at the rate of four per centum per annum for the residue of the term for which the lease was granted, produce the amount of the full duty.

For the purposes of this provision the full duty means the duty (if any) which would have become payable if the lease had not determined until the expiration of the term for which it was granted, and, if the total value of the land were at that time the same, as it is when the lease actually determines.

(3) No reversion duty shall be charged on the determination of any lease of land where the lease is determined in pursuance of an agreement between the lessor and the lessee for the acquisition by the lessee of the lessor's interest, if at the time of the determination of the lease—

- (a) The lease has at least fifty years of its term to run ; and
- (b) The total value of the land does not exceed five hundred pounds,



(4) Where a lease of any land held upon trust for any body of persons is determined before the expiration of the term of the lease by the surrender thereof to the lessor upon the terms that he shall grant to those persons severally leases of various plots of land representing in the aggregate the whole of the land comprised in the original lease, for a term in each case equal to the unexpired term of the residue of the original lease, and at rents amounting in the aggregate to but not exceeding the rent reserved by the original lease, no reversion duty shall be payable on the determination of the lease :

Provided that the lessor shall, in any case to which this provision applies, deliver an account under sec. 15 of the principal Act in the same manner as if reversion duty were payable on the determination of the lease.

(5) Sub-sec. (3) of sec. 14 of the principal Act shall cease to have effect and shall be deemed never to have had effect.

4. *Amendment of sec. 16 (2) (b) of the principal Act.*—Twenty years shall be substituted for ten years as the limit of time for taking expenditure into account for the purposes of paragraph (b) of sub-sec. (2) of sec. 16 of the principal Act.

5. *Amendment of sec. 26 (1) of the principal Act.*—Notwithstanding anything in sub-sec. (1) of sec. 26 of the principal Act, the Commissioners may, on the request of the owner of any pieces of land which are contiguous, and which do not in the aggregate exceed 100 acres in extent, value those pieces of land together for the purposes of that Act, although those pieces of land are under separate occupation, if they are satisfied that in the special circumstances of the case it is equitable to do so ; and any such valuation may be made under this provision, although any of the pieces of land have been valued before the passing of this Act, if the request for the valuation under this provision is made by the owner of the land within three months after the passing of this Act, and in that case any valuation previously made shall be of no effect.

6. *Saving in respect of the payment of increment value duty by certain statutory companies.*—Notwithstanding anything contained in the principal Act, where under the provisions of any lease or agreement any statutory company are required to pay over any part of the increment value of any land to His Majesty, or to any person on behalf of His Majesty, or any Department of Government, that part of the increment value shall, for the purposes of the provisions of the said Act as to the collection of increment value duty, be treated as increment value arising in respect of land held by His Majesty.

7. *Right of Commissioners of Inland Revenue to appeal against decision of referee.*—It is hereby declared that the Commissioners of Inland Revenue, if dissatisfied with the decision of a referee, have under sub-sec. (4) of sec. 33 of the principal Act a right of appeal to the High Court against the decision as persons aggrieved within the meaning of that provision.

## FINANCE ACT, 1912

[2 &amp; 3 GEO. 5. CH. 8.]

*(So far as it relates to Land Values)*

## ARRANGEMENT OF SECTIONS

## PART III.—INLAND REVENUE

## (Miscellaneous)

10. Amendment of sec. 2 (3) of 10 Edw. 7, c. 8.

11. Allowance of rates paid by the proprietor in estimating rental value for purposes of mineral rights duty.

10. *Amendment of sec. 2 (3) of 10 Edw. 7, c. 8.*—Sub-sec. (3) of sec. 2 of the Finance (1909-10) Act, 1910, shall apply to the case of any transfer on sale of the fee simple of the land or of any interest in the land which took place between the twenty-ninth day of April nineteen hundred and nine and the date of the commencement of that Act, or took place after the commencement of that Act in pursuance of any contract made before the commencement of that Act, as it applies to the case of a transfer on sale which took place within twenty years before the thirtieth day of April nineteen hundred and nine.

In the cases where the original site value has been finally settled before the passing of this Act an application may be made, notwithstanding anything in sub-sec. (3) of the said section, under that sub-section for the purpose of giving effect to this provision within three months after the passing of this Act, and the Commissioners of Inland Revenue shall in such a case alter the original site value as finally settled, in such manner (if any) as may be necessary to give effect to the amendment made by this section, and in cases where any amount has been paid on account of duty the Commissioners shall make such repayment as may be necessary to adjust the amount paid to any alteration of value made in pursuance of this provision.

11. *Allowance of rates paid by the proprietor in estimating rental value for purposes of mineral rights duty.*—(1) The amount of rent taken to be the rental value under secs. 20 and 21 of the Finance (1909-10) Act, 1910, of a right to work minerals (where the right is the subject of a mining lease), or of a mineral wayleave shall, in cases where the lessor is liable under any Act to pay any sum on account of rates, be the sum

which would be payable as rent if the lessee were liable instead of the lessor.

(2) Where, for the purpose of ascertaining the rental value of minerals which are being worked by the proprietor, it is necessary for the Commissioners to determine the sum which would have been received as rent by the proprietor if the right to work the minerals had been leased to a working lessee, that rent shall be determined on the basis of the lessee paying all rates in respect of the minerals, notwithstanding that the case may be one in which the proprietor would have been liable to pay the rates or some part thereof.

## STATUTORY RULES AND ORDERS, 1910

No.  $\frac{859}{L.22}$ 

## LAND VALUES DUTIES

## Generally

THE LAND VALUES (REFERENCE) RULES, 1910, DATED JULY 25, 1910, MADE BY THE REFERENCE COMMITTEE FOR ENGLAND UNDER SECTION 33 OF THE FINANCE (1909-10) ACT, 1910 (10 EDW. 7, C. 8)

In pursuance of sec. 33 of the Finance (1909-10) Act, 1910, the Reference Committee for England constituted under that section hereby make the following Rules:—

1. *Short title.*—These rules may be cited as the Land Values (Referee) Rules, 1910.

2. *Interpretation.*—(1) In these rules, unless the context otherwise requires—

“The Act” means the Finance (1909-10) Act, 1910.

“The Commissioners” means the Commissioners of Inland Revenue.

(2) The Interpretation Act, 1889, applies for the purpose of the interpretation of these rules as it applies for the purpose of the interpretation of an Act of Parliament.

3. *Notice of appeal.*—(1) An appeal to a referee under the Act may be made by sending to the Reference Committee and to the Commissioners, within the time prescribed by these rules, a written notice of appeal showing the matter to which the appeal relates and giving particulars of the grounds of the appeal.

(2) The notice of appeal shall be in the form set out in the Schedule to these rules, or in a form to the like effect.

(3) The Commissioners shall cause printed forms of notice of appeal to be furnished gratis to any person who desires to appeal and applies for a form either to them or to a district valuer, or to any other person authorised by the Commissioners to furnish the forms.

4. *Time for notice of appeal.*—The following provisions shall have effect as respects the time of giving notice of appeal:—

- (1) In the case of an appeal against total value or site value on a provisional valuation—

(a) A notice of appeal shall not be treated as an effective notice of appeal if given sooner than thirty days after notice of objection to the provisional valuation has been given by the appellant ;

(b) After the expiration of that time notice of appeal may be given at any time unless notice is given by the Commissioners to the objector that they do not propose to amend their provisional valuation, or do not propose to make any further amendment in their provisional valuation to meet his objection, and in that case notice of appeal must be given within thirty days after notice is so given by the Commissioners.

- (2) In the case of an appeal against any assessment of duty, or against any refusal of the Commissioners to make any allowance or to make the allowance claimed, or against any apportionment, or against the determination of any other matter by the Commissioners, notice of appeal must be given within thirty days after the Commissioners have given notice to the appellant of their assessment, refusal, apportionment, or determination, as the case may be.

5. *Extension of time for giving notice by appellant.*—(1) The Reference Committee may, on the application of any person desiring to appeal, extend the time for appeal prescribed by the foregoing rule, as they, in their absolute discretion, think fit, and may so extend the time although the application is not made until after the expiration of the time prescribed.

(2) Any application for the extension of the time for appeal must be made in writing to the Reference Committee, and must state the grounds of the application, and a copy of the application must be sent to the Commissioners by the applicant.

(3) The Reference Committee shall give the Commissioners reasonable opportunity for laying before them in writing any objections which the Commissioners may have to any such application for an extension of time, and shall consider any such objections.

6. *Selection of referee.*—The referee to whom an appeal is to be referred shall be selected by the Reference Committee, and the Reference Committee shall, as soon as they have selected the referee, inform the Commissioners and the appellant of the name and the address of the referee selected.

7. *Consideration of appeal by referee.*—(1) The referee selected shall, as soon as may be, proceed with the determination of the appeal, and arrange with the Commissioners and the appellant the time and place for consultation with the Commissioners and the appellant with respect thereto.

(2) The Reference Committee shall furnish the referee with a copy of the notice of appeal, and the Commissioners and the appellant shall furnish to the referee on his request any document or other information which it is in their or his power to furnish, and which the referee may require for the purpose of the determination of the appeal.

(3) Subject to the provisions of the Act and of these rules, the proceedings on the consideration of an appeal shall be such as the referee, subject to any special directions of the Reference Committee, may in his discretion direct.

(4) In this rule any reference to the Commissioners or to the appellant includes a reference to any person nominated by the Commissioners or the appellant respectively under sub-sec. (3) of sec. 33 of the Act.

8. *Appellant limited to grounds of appeal.*—The appellant shall not, on the consideration of his appeal, be allowed to rely upon any grounds of appeal not specifically set out in his notice of appeal, but the referee may, if he thinks it just under the circumstances, allow the notice of appeal to be amended at any time.

9. *Decision of referee.*—The decision of the referee shall be in the form contained in the Schedule to these rules, or in a form to the like effect, and the referee shall cause copies of his decision to be furnished to the Reference Committee, the Commissioners, and the appellant.

10. *Power to select another referee.*—The Reference Committee may, in the case of the death or incapacity of the referee originally selected, or if it is shown to the Committee that it is expedient so to do, in any other case, at any time before the decision of an appeal by a referee, revoke the reference of the appeal to the selected referee, and select another referee for the purpose of determining the appeal.

11. *Appearance of third parties.*—(1) On the consideration of any appeal, the referee shall on the application of any person who appears to the referee to be interested in the land in respect of which the appeal is made, or to be otherwise interested in the matter of the appeal, give him an opportunity of putting his case before the referee in writing, and if necessary, of taking part in any consultation with reference to the appeal.

(2) The Commissioners, when they receive notice of any appeal against total or site value on a provisional valuation, shall give notice of the appeal to any person from whom a return has been required for the purpose of the valuation, and to any person who has applied to the Commissioners for a copy of the provisional valuation of the land under sub-sec. (5) of sec. 27 of the Act.

12. *Alteration of valuations, etc., by Commissioners.*—The Commissioners shall as soon as may be on receiving notice of the decision of the referee on any appeal make such alterations in the particulars of any valuations, apportionments, reapportionments, assessments, or other documents as may be necessary to carry out the decision of the referee.

13. *Provision as to sending of notices.*—Any notice or other document required or authorised to be sent to any person for the purpose of these rules shall be deemed to be duly sent if sent by post addressed to that person at his ordinary address, and the ordinary address of the Reference Committee shall for this purpose be deemed to be the office of the Surveyors' Institution.

14. *Informalities not necessarily to invalidate proceedings.*—Any failure on the part of any authority or any person to comply with the provisions of these rules shall not render the proceedings on a reference to a referee, or anything done in pursuance thereof, invalid, unless the referee so direct.



*Schedule*

I.—FORMS OF NOTICE OF APPEAL

A

FINANCE (1909-10) ACT, 1910, S. 33

NOTICE OF APPEAL TO REFEREE AGAINST TOTAL OR SITE VALUE ON  
A PROVISIONAL VALUATION

To the Reference Committee.

[Or, To the Commissioners of Inland Revenue.]

I hereby give notice that I intend to appeal against<sup>1</sup> the total value and site value fixed on the annexed provisional valuation, on the ground that<sup>1</sup> the items numbered in the annexed provisional valuation are excessive, and that the items numbered in the annexed provisional valuation are insufficient.

<sup>2</sup>Signed.....

Address.....

Dated

PROVISIONAL VALUATION

County

Parish

No. of hereditament

I. GROSS VALUE

DEDUCTIONS FROM GROSS VALUE

(a) To arrive at Full Site Value		(b) To arrive at Total Value		
2	Difference between Gross Value and Value of the Fee Simple of the Land divested of Buildings, Trees, etc.	3	Fee Farm Rent, Rent Seck, Quit Rent, Chief Rent, or Rent of Assize ... ..	Fixed Charges.
		4	Other Perpetual Rent or Annuity ...	
		5	Tithe or Tithe Rent-Charge ...	
		6	Burden or charge arising by operation of Law or imposed by Act of Parliament ... ..	
		7	If Copyhold, Cost of Enfranchisement ...	
		8	Public Rights of Way or User ... ..	
		9	Rights of Common ... ..	
		10	Easements ... ..	
		11	Restrictions under Covenant or Agreement	
		Total Deductions ...		
FULL SITE VALUE...		TOTAL VALUE ...		

Fixed Charges.

<sup>1</sup> If the appeal is against total value only or site value only, or if the ground of appeal is that certain items are excessive only or are insufficient only, the unnecessary words will be deleted.

<sup>2</sup> If an agent, the name of and address of the principal on whose behalf he acts must be stated.

DEDUCTIONS FROM TOTAL VALUE TO ARRIVE AT ASSESSABLE SITE VALUE

12. Deductions from Gross Value to arrive at Full Site Value (as above) ... ..	
13. Works executed ... ..	
14. Capital expenditure ... ..	
15. Appropriation of Land for streets, roads, open spaces, etc. ...	
16. Redemption of Land Tax or Fixed Charge ... ..	
17. Enfranchisement of Copyholds ... ..	
18. Release of Restrictive Covenants ... ..	
19. Goodwill or personal elements ... ..	
20. Cost of clearing Site ... ..	
Total Deductions ... ..	
ASSESSABLE SITE VALUE ... ..	

Special Form for Minerals treated as a separate parcel of land

I. TOTAL VALUE	
<i>Less—</i>	
2. Deductions on account of works executed or expenditure of a capital nature incurred ... ..	
CAPITAL VALUE ... ..	

B

FINANCE (1909-10) ACT, 1910

NOTICE OF APPEAL TO REFEREE IN RESPECT OF ANY MATTER OTHER  
THAN TOTAL OR SITE VALUE ON A PROVISIONAL VALUATION

County                      Parish                      No. of hereditament

To the Reference Committee.

[Or, To the Commissioners of Inland Revenue.]

I hereby give notice of my intention to appeal against<sup>1</sup>

The particulars of my grounds of appeal are as follows :—

<sup>2</sup>Signed.....  
Address.....

Dated

<sup>1</sup> Here insert the matter appealed against, *e.g.*, "The assessment of                      duty under Part I. of the Finance Act," "The refusal of the Commissioners to make an allowance in respect of," etc., etc., or "The determination by the Commissioners in respect of the following matter, namely"—

<sup>2</sup> If an agent, the name and address of the principal on whose behalf he acts must be stated.

II.—FORM OF DECISION OF REFEREE

FINANCE (1909-10) ACT, 1910

DECISION OF REFEREE ON APPEAL

The decision on the appeal in respect of which the annexed notice of appeal has been given is as follows :—<sup>1</sup>

*Signed*.....

*Referee.*

Dated

Pursuant to the powers contained in section 33 of the Finance (1909-10) Act, 1910, we have made the above rules and forms.

ALVERSTONE, C.J.

HERBERT H. COZENS-HARDY, M.R.

LESLIE R. VIGERS. \*

25 July 1910.

Approved by the Treasury,

JOHN W. GULLAND.

WEDGWOOD BENN.

<sup>1</sup> If the notice of appeal is in Form A, the decision should be stated by reference to the items complained of in the particulars of the grounds of appeal. Any variations in those items, with the consequential alterations of the totals, should be stated.

If the notice of appeal is in Form B, the decision should follow as far as possible the form of the notice of appeal.

## STATUTORY RULES AND ORDERS, 1910

No. 712

## LAND VALUES DUTIES

## Increment Value Duty

RULES MADE BY THE COMMISSIONERS OF INLAND REVENUE UNDER SECTION 3, SUB-SECTIONS (2) AND (3), OF THE FINANCE (1909-10) ACT, 1910 (10 EDW. 7, C. 8).

For the purposes of these rules—

- (1) The expression “proper proportion” means the ratio of the present value of an annuity for the term of the interest under review to the present value of the same annuity in perpetuity :
- (2) The expression “term of the interest” means—
  - (a) where the interest is an interest in possession, a term equal to the residue of the interest for the time being outstanding :
  - (b) where the interest is a reversion expectant on the determination of a lease, a term equal to the term of the reversion deferred for the period of the outstanding term of the lease.
- (3) Where the term of an interest is a term dependent on life, the term shall be taken to be a term equal to the mean expectation of life of the person on whose life the interest is dependent or, where the interest is dependent on more than one life, of the youngest of the persons on whose life it is dependent.

For the purpose of ascertaining the mean expectation of life, the mortality tables, based on the Northampton experience, shall be adopted :

- (4) The calculations for the purpose of ascertaining the proper proportion shall be based on the 4 per cent. tables for the purchase of leases, estates, or annuities :
- (5) The expressions “duty to be collected” and “duty paid” mean the duty which, for the purposes of future calculations, is to be deemed to have been paid :
- (6) A lease for a term of which 99 or more years remain unexpired shall be treated as a fee simple, and a reversion expectant on the determination of such a lease shall not be treated as an interest in land :

- (7) Where the land is a copyhold of inheritance, or a copyhold held for a life or lives or for years where the tenant has a right of renewal, or a customary freehold, references in these rules to the fee simple of the land shall be treated as references to the whole copyhold or customary interest or estate, and in the case of copyhold land held for a life or lives or for years, where the tenant has not a right of renewal, these rules shall have effect as if the land were freehold land and the copyhold interest were a leasehold interest.

2.—(1) The amount of increment value duty unsatisfied on the occasion of the transfer on sale or passing on death of the fee simple of any land, or on the occasion of the grant of any fee of any land, or the creation of any ground annual thereon, or on any periodical occasion in the case of the fee simple of any land held by a body corporate or unincorporate, shall be one-fifth of the increment value of the land after deducting from that one-fifth the amount of increment value duty which may have been paid on any previous occasion.

(2) The amount of increment value duty to be collected on any such occasion shall be the whole of the amount of the duty which is unsatisfied.

3.—(1) The amount of increment value duty unsatisfied on the occasion of the grant of a lease or transfer on sale or passing on death of any interest in land, or on any periodical occasion in the case of an interest in land held by a body corporate or unincorporate, shall be one-fifth of the increment value of the land after deducting from that one-fifth one-fifth of the increment value on the last occasion (if any) on which duty was paid in respect of the interest under review.

(2) The duty to be collected on any such occasion shall be the proper proportion at the date of the occasion of the duty unsatisfied:

Provided that—

- (a) where duty has been paid on the creation of an inferior interest created out of the interest under review, and duty has not subsequently been paid in respect of that interest, and the proper proportion on the occasion under review exceeds the proper proportion immediately after the creation of the inferior interest, the duty to be collected shall be reduced by a proportion—equal to such excess—of the increment value duty determined to have been unsatisfied on the creation of the inferior interest;

(b) where the amount of duty to be collected on any occasion in accordance with this rule is such that if paid the total amount of duty paid in respect of any interest (including all interests created thereout whether still subsisting or not) would exceed the duty which would have been payable on the creation of the interest had the site value of the land on that occasion been the highest site value revealed on any occasion since the creation of the interest, the amount to be collected shall be reduced by the amount of such excess, and for the purpose of this proviso any interest or interests which existed on the thirtieth day of April nineteen hundred and nine shall be deemed to have been created, or to have been successively created, immediately after that date ;

(c) where the amount of duty to be collected in accordance with this rule on any occasion when the interest under review is a freehold reversion is such that, if paid, the total amount of duty paid in respect of all interests, whether still subsisting or not, would exceed the duty which would have been payable had the fee simple of the land been transferred on sale at the time when the site value of the land was the highest site value revealed on any occasion since the thirtieth day of April nineteen hundred and nine, the amount to be collected shall be reduced by the amount of such excess.

(3) Any duty paid on the creation of an interest shall, for the purpose of this rule, be deemed to have been paid in respect of the interest so created, and not in respect of the interest out of which it was created.

**FORMS ISSUED BY THE COMMISSIONERS OF  
INLAND REVENUE under the Land Valuation  
Clauses of the Finance (1909-10) Act, 1910.**

**FORM I.—LAND  
DUTIES ON LAND VALUES**

**NOTICE TO MAKE RETURNS**

To..... INLAND REVENUE,  
..... SOMERSET HOUSE,  
..... LONDON, W.C.,  
..... 1910.

SIR,

With reference to the provisions of the Finance (1909-10) Act, 1910, and by the directions of the Commissioners of Inland Revenue, I hereby require you to make returns in the form provided, in respect of so much of your land as is situate within the parish or place of.....  
.....and to deliver such returns, duly signed by you, within thirty-five days from this date, to the Commissioners of Inland Revenue at the above address or to the appointed officer.....

A franked envelope is enclosed in which the returns may be sent to the officer, post free.

I am to point out that the expression "land" includes all buildings and other structures thereon, and all minerals on, in, or under the surface of the land.

The necessary particulars are to be furnished separately as respects each piece of the land which is under separate occupation, and, for the purposes of valuation, minerals are to be treated as a separate parcel of land.

You may, if you think fit, furnish your estimate of the total value and the site value of the land. If you desire to do so, the values declared are to be estimated as on 30th April 1909, they are to be declared separately as respects each piece of land which is under separate occupation, and may be declared separately, if you think fit, as respects any part of any land which is under separate occupation.

If you require a further supply of forms for the purpose of making returns, please inform the officer at once of the number required.

You are particularly requested to read carefully the accompanying instructions before making your returns.

It may be found necessary that the boundaries of the land to which each return relates should be precisely indicated on the Ordnance Survey Maps of the district. In that event a map or maps will be subsequently sent to you for insertion of the required particulars relating to your land.

Any owner of land, or person receiving rent in respect of land, who is required to make a return and fails to do so within the time specified in this notice, is liable to a penalty not exceeding £50.

I am, Sir,

Your obedient Servant,

F. ATTERBURY,

*Secretary.*

#### FORM 2.—LAND

### DUTIES ON LAND VALUES

#### INSTRUCTIONS FOR MAKING RETURNS ON FORM 4

##### *I.—Instructions relating principally to particulars which it is compulsory to furnish*

1. The persons who are required to make this return are (a) the owner of the land, and (b) any person receiving rent in respect of the land.

The expression "owner" means the person entitled in possession to the rents and profits of the land in virtue of any estate of freehold, except that where land is let on lease for a term of which more than fifty years are unexpired, the lessee under the lease, or, if there are two or more such leases, the lessee under the last created underlease, is deemed to be the owner instead of the person entitled to the rents and profits as aforesaid.

2. The expression "land" includes all buildings and other structures thereon, and all minerals on, in, or under the surface of the land.

3. If any person who is not the owner of land, or a person receiving rent, is called upon to make a return, he should return the form to the officer named in the notice, stating the nature and extent of his own interest in the land, and the name and address of the owner, or the person to whom he pays rent. If any person called upon to make a return is unable to give all the information required, he should furnish all the particulars which it is in his power to give, and insert the words "not known" in the spaces which he is unable to fill up.



4. If any piece of land under one occupation extends into two or more parishes, separate returns may, if the owner thinks fit, be made for the parts lying within each parish, or, one return, relating to the whole of the land, may be made in the parish in which the greater part of the land is situate. In the latter case, notes should be made on the forms for the other parish or parishes affected, "*Included in return for.....parish*" (stating the name of the parish in which the inclusive return has been made).

5. Attention is called to the fact that the owner has the option of requiring the Commissioners to value separately any part of any land. In cases in which it is desired to exercise this option, particulars of the division required should be entered in the space for "observations" on the form of return.

5A. Under Section 5 of the Revenue Act, 1911, the Commissioners of Inland Revenue may, on the request of the owner of any pieces of land which are contiguous, and which do not in the aggregate exceed one hundred acres in extent, value those pieces of land together, if they are satisfied that in the special circumstances of the case it is equitable to do so. Any request under this Section should be inserted in the space for "Observations" on the form of return.

6. For the purposes of valuation, minerals are to be treated as a separate parcel of land; but where the minerals are not comprised in a mining lease, or being worked, they are to be treated as having no value as minerals, unless the proprietor of the minerals, in his return, specifies the nature of the minerals and his estimate of their capital value.

## *II.—Instructions relating principally to particulars which the owner may furnish if he thinks fit*

7. If the owner desires to furnish his estimate of the total value and the assessable site value of the land, the value to be returned is not merely the value of the interest or share belonging to the person making the return, but the whole value of the land, that is, the aggregate value of all the interest therein, subject only to the limitations specified below.

(i.) The gross value of land means the amount which the fee Gross simple of the land, if sold at the time in the open market by a willing seller in its then condition, free from incumbrances,<sup>1</sup> and

<sup>1</sup> The expression "incumbrance" includes a mortgage in fee, or for a less estate, and a trust for securing money, and a lien, and a charge of a portion, annuity, or any capital or annual sum, but does not include a fixed charge as defined in the footnote below.

from any burden, charge, or restriction (other than rates or taxes), might be expected to realise.

Full Site  
Value.

(ii.) The full site value of land means the amount which remains after deducting from the gross value of the land the difference (if any) between that value and the value which the fee simple of the land, if sold at the time in the open market by a willing seller, might be expected to realise if the land were divested of any buildings, and of any other structures (including fixed or attached machinery) on, in, or under the surface, which are appurtenant to, or used in connection with, any such buildings, and of all growing timber, fruit trees, fruit bushes, and other things growing thereon.

Total Value.

(iii) The total value of land means the gross value after deducting the amount by which the gross value would be diminished if the land were sold subject to any fixed charges,<sup>1</sup> and to any public rights of way, or any public rights of user, and to any right of common, and to any easements affecting the land, and to any covenant or agreement restricting the use of the land, entered into or made before the 30th day of April 1909, and to any covenant or agreement restricting the use of the land entered into or made on or after that date, if the restraint imposed by the covenant or agreement so entered into or made on or after that date was when imposed desirable in the interests of the public, or in view of the character and surroundings of the neighbourhood.

Assessable  
Site Value.

(iv.) The assessable site value of land means the total value after deducting—

(a) The same amount as is to be deducted for the purpose of arriving at full site value from gross value; and

(b) Any part of the total value which is directly attributable to works executed, or expenditure of a capital nature (including any expenses of advertisement) incurred *bona fide* by, or on behalf of, or solely in the interests of, any person interested in the land, for the purpose of improving the value of the land as building land, or for the purpose of any business, trade, or industry other than agriculture;<sup>2</sup> and

<sup>1</sup> The expression "fixed charge" means any rent-charge (that is, tithe or tithe rent-charge, or other periodical payment or rendering in lieu of or in the nature of tithe, or any fee farm rent, rent seck, quit-rent, chief-rent, rent of assize, or any other perpetual rent or annuity granted out of land), and any burden or charge (other than rates or taxes) arising by operation of law, or imposed by any Act of Parliament, or imposed in pursuance of the exercise of any powers, or the performance of any duties under any such Act, otherwise than by a person interested in the land or in consideration of any advance to any person interested in the land.

<sup>2</sup> The expression "agriculture" includes the use of land as meadow or pasture land or orchard or osier or woodland, or for market gardens, nursery grounds, or allotments; and the expression "agricultural land" is to be construed accordingly.

(c) Any part of the total value which is directly attributable to the appropriation of any land or to the gift of any land by any person interested in the land for the purpose of streets, roads, paths, squares, gardens, or other open spaces for the use of the public ; and

(d) Any part of the total value which is directly attributable to the expenditure of money on the redemption of any land tax, or any fixed charge, or on the enfranchisement of copyhold land or customary freeholds, or on effecting the release of any covenant or agreement restricting the use of land which may be taken into account in ascertaining the total value of the land, or to goodwill or any other matter which is personal to the owner, occupier, or other person interested for the time being in the land ; and

(e) Any sums which it would be necessary to expend in order to divest the land of buildings, timber, trees, or other things of which it is to be taken to be divested for the purpose of arriving at the full site value from the gross value of the land, and of which it would be necessary to divest the land for the purpose of realising the full site value.

Where any works executed or expenditure incurred for the purpose of improving the value of the land for agriculture have actually improved the value of the land as building land, or for the purpose of any business, trade, or industry other than agriculture, the works or expenditure are to be treated as having been executed or incurred also for the latter purposes.

8. A person is not entitled to claim any deduction for the purpose of ascertaining the site value of any land on any occasion on which increment value duty becomes payable, if the deduction is one which could have been, but was not, claimed for the purpose of ascertaining the original site value of the land.

9. The following provisions have effect with respect to copyholds, including customary freeholds :—

(i.) In the case of copyholds of inheritance, and copyholds held for a life or lives or for years where the tenant has a right of renewal, and customary freeholds—

(a) The total and site value of the land are to be ascertained as if the land were freehold land, subject to a deduction of an amount equal to the amount which it would cost to enfranchise the land ;

(b) References to the fee simple of land are to be treated as references to the whole copyhold or customary interest or estate ;

(c) In the definition of "owner," a reference to the person entitled to the rents and profits of the land as tenant by copy of court roll or customary tenure is to be substituted for the reference to the person entitled to the rents and profits of the land in virtue of an estate of freehold ;

(ii.) In the case of copyhold land held for a life or lives, or for years where the tenant has not a right of renewal, the Finance (1909-10) Act, 1910, is to have effect as if the land were freehold land and the copyhold interest were a leasehold interest.

10. The total value of minerals means the amount which the fee simple of the minerals, if sold in the open market by a willing seller in their then condition, might be expected to realise, and the capital value of minerals means the total value, after allowing deductions for any works executed or expenditure of a capital nature incurred *bona fide* by or on behalf of any person interested in the minerals for the purpose of bringing the minerals into working, or where the minerals have been partly worked, such deduction as is proportionate to the amount of minerals which have not been worked.

FORM 4.—LAND

**Duties on Land Values**

(*Finance (1909-10) Act, 1910*)

**Return to be made by an Owner of Land or by any Person receiving Rent in respect of Land**

(*Penalty for failure to make a due Return, not exceeding £50*)

Reference to the accompanying Sheet of Instructions (Form 2—Land)	<div style="display: flex; align-items: center;"> <div style="margin-right: 10px;">Particulars extracted from the Rate Books.</div> <div style="margin-right: 10px;">{</div> <div>                 Parish ... ..                  Number of Poor Rate ...                  Name of Occupier ...                  Description of Property                  Situation of Property ...                  Estimated extent ...                  Gross Estimated Rental                  (or Gross Value in Valuation List<sup>1</sup>) ... ..                  Rateable Value ... ..             </div> </div>		This space is not for the use of the person making the Return.			
<b>SEE INSTRUCTION 2.</b>			Acres	Roods		
			£	£		
	(1 Applicable to the Metropolis only.)					
<b>IMPORTANT.</b> —As the Land is to be valued as on 30th April 1909, the particulars should be furnished, so far as possible, with reference to the circumstances existing on that date.						
See Instruction 3.	<b>I. Particulars required by the Commissioners which must be furnished so far as it is in the power of the person making the Return to give them.</b>					
See Instruction 4.	(a) Parish or Parishes in which the Land is situated.					
	(b) Name of Occupier ... ..					
	(c) Christian Name and Surname and full postal address of the person making the Return.					
See Instructions 1 and 3.	(d) Nature of Interest of the person making the Return in the Land.					
See Instruction 9.	(1) Whether Freehold, Copyhold, or Leasehold.		1			
	(2) If Copyhold, name of the Manor.		2			
	(3) If Leasehold (i.) term of lease and date of commencement (including, where the lease contains a covenant for renewal, the period for which the lease may be renewed), and (ii.) name and address of lessor or his successor in title.		3 (i.)	3 (ii.)		

Reference to the accompanying Sheet of Instructions (Form 2—Land)	(e) Name and precise situation of the Land.				
<b>SEE INSTRUCTION 2.</b>	(f) Description of the Land, with particulars of the buildings and other structures (if any) thereon, and the purposes for which the property is used.  (House, Stable, Shop, Farm, etc.)				
	(g) Extent of the Land, if known ...	Acres.	Roods.	Perches.	Yards.
	(h) If the Land is let by the person making the Return, state :—  (i.) Whether let under Lease or Agreement, or  (ii.) If there is no lease or written Agreement, whether let by the Year, Quarter, Month, or Week.  (iii.) If let under Lease or Agreement— (a) Term for which granted ... (b) Date of commencement of term (c) Whether granted for any consideration of money, paid or to be paid by the Tenant in addition to the Rent reserved, <sup>1</sup> or (d) Upon any condition as to the Tenant laying out money in Building, Rebuilding, or Improvements. <sup>1</sup>  (iv.) Amount of Yearly Rent receivable. (' If so, give full particulars.)	(i.)   (ii.)   (iii.) (a) (b) (c)  (d)	(iv.) £		
	(k) Amount of Land Tax (if any) and by whom borne.	£	borne by		
	(l) Amount of Tithe Rent-charge, or of any payment in lieu of Tithes, for the year 1909, and by whom borne.	£	borne by		
	(m) Amount of drainage, or Improvement Rate, or any similar charge, and by whom borne.	£	borne by		

Reference to the accompanying Sheet of Instructions (Form 2—Land)	(n) Whether all usual Tenants' Rates and Taxes are borne by the Occupier, and, if not, by whom.	
	(o) By whom is the cost of repairs, Insurance, and other expenses necessary to maintain the property borne?	
See Instructions Footnote 2.	<p>(p) Whether the land is subject to any—</p> <p>(i.) Fixed Charges (exclusive of Tithe Rent-charge entered in space (l) ), and, if so, the Annual Amount thereof.</p> <p>(ii.) Public Rights of Way ... ..</p> <p>(iii.) Public Rights of User ... ..</p> <p>(iv.) Right of Common ... ..</p> <p>(v.) Easements affecting the Land ...</p> <p>(vi.) Covenant or Agreement restricting the use of the Land, and, if so, the date when such Covenant or Agreement was entered into or made.</p> <p>(Full particulars should be given in each case.)</p>	<p>Annual Amount £</p> <p>Date when made</p>
See Instruction 5.	<p>(q) Particulars of the last sale (if any) of the Land within 20 years before 30th April 1909, and of Expenditure since the date thereof:—</p> <p>(i.) Date of Sale ... .. (i.)</p> <p>(ii.) Amount of Purchase-money and other consideration (if any). (ii.)</p> <p>(iii.) Capital Expenditure upon the Land since date of Sale. (iii.)</p> <p>(r) Observations, with description, extent, and precise situation of any part of the Land which the Owner requires to be separately valued.</p>	
	(s) If the person making the Return desires that communications should be sent to an Agent or Solicitor on his behalf, the name and full postal address of such Agent or Solicitor.	

Reference to the accompanying Sheet of Instructions (Form 2—Land)	<p><sup>1</sup> (z) (i.) Does the person making the Return own the minerals comprised in the Land?</p> <p>(ii.) If so, state :—</p> <p>(a) Whether the minerals were on 30th April 1909 comprised in a mining lease or being worked by the proprietor.</p> <p>(b) Whether the minerals are now comprised in a mining lease or being worked by the proprietor.</p> <p>(iii.) If not, state the name and address of the proprietor of the minerals.</p> <p>(<sup>1</sup> Minerals not comprised in a mining lease or being worked are to be treated as having no value as minerals unless the proprietor of the minerals fills up space (w) below.)</p>	<p>(i.)</p> <p>(ii.) (a)</p> <p>(b)</p> <p>(iii.)</p>
See Instruction 6.	<p>I hereby declare that the foregoing particulars are in every respect fully and truly stated to the best of my judgment and belief.</p> <p>Dated this _____ day of _____ 191 .</p> <p>_____ { Signature of person making the Return. Rank, Title, or Description.</p>	
<p><b>II. Additional particulars which may be given, if desired.</b></p>		
See Instructions 7, 8, and 9.	<p>(u) Value of the Land as defined in Instruction 7, and estimated by the Owner, with particulars how arrived at :—</p> <p>(i.) Gross Value ... ..</p> <p>(ii.) Full Site Value ... ..</p> <p>(iii.) Total Value ... ..</p> <p>(iv.) Assessable Site Value ... ..</p> <p>(v.) Particulars how Values arrived at <sup>1</sup></p> <p>(<sup>1</sup> May be given on a separate sheet of paper, if desired.)</p>	<p>(i.) £</p> <p>(ii.) £</p> <p>(iii.) £</p> <p>(iv.) £</p> <p>(v.)</p>
See Instructions 7, 8, and 9.	<p>(v) If the Owner does not desire to furnish his estimate of the Value of the Land, but intends to claim a Site-Value deduction under Instruction 7 (iv.), (a), (b), (c), or (d), or under Instruction 9 (i.), (a), the intention should be stated. A form will then be sent in due course for particulars of the claim to be given.</p>	
See Instructions 6 and 10.	<p>(w) Nature and estimate of the Capital Value of any minerals not comprised in a mining lease and not being worked which have a value as minerals.</p>	<p>Nature</p> <p>Capital Value £</p>
<p>_____ Signature.</p> <p>_____ Date.</p>		



## FINANCE (1909-10) ACT, 1910

## DUTIES ON LAND VALUES

## FORM 35.—LAND

To.....

Of.....

Date

, 191 .

SIR,

By direction of the Commissioners of Inland Revenue I herewith send you a copy of their provisional valuation of the land mentioned therein, which has been made under the provisions of the Finance (1909-10) Act, 1910.

If the land or any interest in the land has been sold or mortgaged at any time within twenty years before April 30th, 1909, and the Site Value at the date of the sale or mortgage estimated by reference to the amount of the consideration or the amount secured by the Mortgage exceeded the Original Site Value on April 30th, 1909, the Site Value so estimated may be substituted for the Original Site Value for the purposes of Increment Value Duty.<sup>1</sup> If you desire to avail yourself of this provision, you should take the necessary steps without delay to submit proof of the Site Value you desire to have substituted, and in the first instance full particulars of the sale or mortgage should be furnished.<sup>2</sup>

If you consider that the Total or Site Value, as stated in the provisional valuation, is not correct, you may, with a view to an amendment of the provisional valuation, **within sixty days** of the date on which the copy of the provisional valuation is served, give to **the undersigned** notice of objection, stating the grounds of your objection and the amendment you desire. If the provisional valuation is amended so as to be satisfactory to all persons making objections, the Total and Site Value as stated in the amended valuation will be adopted as the Original Total and the Original Site Value for the purposes of Part I. of the Act.

The Act provides that if the provisional valuation is not amended by the Commissioners so as to be satisfactory to any objector, that objector may give notice of appeal under the Act with respect to the valuation.

<sup>1</sup> Section 2 of the Revenue Act, 1911, extends this provision to a sale of land or any interest in land which took place twenty years or more before April 30th, 1909, and which was a sale to the person who is the owner of the land or any interest in the land at the time when the application for a substituted Site Value is made.

Section 10 of the Finance Act, 1912, extends the same provision to a sale of land or any interest in land which took place between April 29th, 1909, and April 29th, 1910, or took place on or after April 29th, 1910, in pursuance of any contract made before that date.

<sup>2</sup> Any claim for substituted Site Value must be made within three months after the Original Site Value of the land has been finally settled.

Section 33 enacts as follows :—

“An appeal shall not lie against a provisional valuation made by  
 ‘the Commissioners of the total or site value of any land  
 ‘except on the part of a person who has made an objection to  
 ‘the provisional valuation in accordance with this Act.”

By Order of the Commissioners of Inland Revenue,

*District Valuer.*

Address.....

.....

# DUTIES ON LAND VALUES

## PROVISIONAL VALUATION

## FORM 36.—LAND

*The name of the parish and number of the hereditament should be quoted in all communications.*

Description of Property -					
Situation - - -		County	Parish		No. of hereditament
Name of Occupier - -					
Extent - - - -		Acres	Roods	Perches	Yards
The Commissioners of Inland Revenue have caused to be made the following Provisional Valuation of the land described above :—					
ORIGINAL GROSS VALUE - - £					
Deductions from Gross Value					
(a) To arrive at Full Site Value		(b) To arrive at Total Value			
Difference between Gross Value and Value of the Fee Simple of the Land divested of Buildings, Trees, etc.	£	Fee Farm Rent, Rent Seck, Quit-Rent, Chief-Rent, or Rent of Assize	£	Public Rights of Way or User	£
	Fixed Charges	Other perpetual Rent or Annuity		Right of Common	
		Tithe or Tithe Rent-Charge		Easements	
		Burden or charge arising by operation of law, or imposed by Act of Parliament		Restrictions under Covenant or Agreement	
		If Copyhold, Cost of Enfranchisement		Total Deductions	
ORIGINAL FULL SITE VALUE £		ORIGINAL TOTAL VALUE - - £			
Deductions from Total Value to arrive at Assessable Site Value					
Deductions from Gross Value to arrive at Full Site Value (as above)	£	Enfranchisement of Copyholds -		£	
Works executed - - - -		Release of Restrictive Covenants			
Capital Expenditure - - -		Goodwill or personal elements -			
Appropriation of Land for streets, roads, open spaces, etc. -		Cost of clearing Site - - -			
Redemption of Land Tax or Fixed Charge - - - - -		Total Deductions - - -			
ORIGINAL ASSESSABLE SITE VALUE - - - - - £					
Value of Agricultural Land for Agricultural purposes where different from Assessable Site Value - - - - - £					

Given under my hand this \_\_\_\_\_ day of \_\_\_\_\_ 191

\_\_\_\_\_  
 { Valuer appointed by the  
 Commissioners of Inland Revenue.  
 District.

Certified a true copy,

## SCALE OF CHARGES UNDER THE FINANCE ACT, 1910

*Drawn up by the Surveyors' Club, the Land Surveyors'  
Club, the Surveyors' Association, the '94 Club,  
and the Land Agents' Society.*

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### FOR SURVEY, COMPLETION OF GOVERNMENT RETURNS, VALUATION AND REPORT

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#### Country Residential Properties, Agricultural Land and Undeveloped Land :

One half-guinea per cent. up to a "total value" of  
£20,000, and one quarter-guinea per cent. on  
the balance above that amount.

#### Urban Properties :

One quarter-guinea per cent. on a "total value" of  
£20,000, and one-eighth guinea per cent. on the  
balance above that amount.

Where an Agent, whether resident or otherwise, is appointed  
on behalf of his Client to make the valuations, one-half of the  
above Scales to be charged.

Minimum fee to be Three Guineas.

Plans and disbursements, and valuations of Timber (if  
required), extra.

For attendance in all cases when summoned to attend before  
the Commissioners, or Referees, Three Guineas a day and  
disbursements.

## VALUATION TABLES

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- Table 1. Present Value of £1 per annum.
- „ 2. Amount of £1 at end of given term.
  - „ 3. Amount of £1 per annum for a given term.
  - „ 4. Present Value of £1 at end of given term.

TABLE I

Present Value of £1 per Annum for any Number of Years.

Years.	1/3 per cent.	3/4 per cent.	4 per cent.	4 1/2 per cent.	5 per cent.	5 1/2 per cent.	6 per cent.	7 per cent.	8 per cent.	Years.
1	.971	.966	.962	.957	.952	.948	.943	.935	.926	1
2	1.913	1.900	1.886	1.873	1.859	1.846	1.833	1.808	1.783	2
3	2.829	2.802	2.775	2.749	2.723	2.698	2.673	2.624	2.577	3
4	3.717	3.673	3.630	3.588	3.546	3.505	3.465	3.387	3.312	4
5	4.580	4.515	4.452	4.390	4.329	4.270	4.212	4.100	3.993	5
6	5.417	5.329	5.242	5.158	5.076	4.996	4.917	4.767	4.623	6
7	6.230	6.115	6.002	5.893	5.786	5.683	5.582	5.389	5.206	7
8	7.020	6.874	6.733	6.596	6.463	6.335	6.210	5.971	5.747	8
9	7.786	7.608	7.435	7.269	7.108	6.952	6.802	6.515	6.247	9
10	8.530	8.317	8.111	7.913	7.722	7.538	7.360	7.024	6.710	10
11	9.253	9.002	8.760	8.529	8.306	8.093	7.887	7.499	7.139	11
12	9.954	9.663	9.385	9.119	8.863	8.619	8.384	7.943	7.536	12
13	10.635	10.303	9.986	9.683	9.394	9.117	8.853	8.358	7.904	13
14	11.296	10.921	10.563	10.223	9.899	9.590	9.295	8.745	8.244	14
15	11.938	11.517	11.118	10.740	10.380	10.038	9.712	9.108	8.559	15
16	12.561	12.094	11.652	11.234	10.838	10.462	10.106	9.447	8.851	16
17	13.166	12.651	12.166	11.707	11.274	10.865	10.477	9.763	9.122	17
18	13.754	13.190	12.659	12.160	11.690	11.246	10.828	10.059	9.372	18
19	14.324	13.710	13.134	12.593	12.085	11.608	11.158	10.336	9.604	19
20	14.877	14.212	13.590	13.008	12.462	11.950	11.470	10.594	9.818	20
21	15.415	14.698	14.029	13.405	12.821	12.275	11.764	10.836	10.017	21
22	15.937	15.167	14.451	13.784	13.163	12.583	12.042	11.061	10.201	22
23	16.444	15.620	14.857	14.148	13.489	12.875	12.303	11.272	10.371	23
24	16.936	16.058	15.247	14.495	13.799	13.152	12.550	11.469	10.529	24
25	17.413	16.482	15.622	14.828	14.094	13.414	12.783	11.654	10.675	25
26	17.877	16.890	15.983	15.147	14.375	13.663	13.003	11.826	10.810	26
27	18.327	17.285	16.330	15.451	14.643	13.898	13.211	11.987	10.935	27
28	18.764	17.667	16.663	15.743	14.898	14.121	13.406	12.137	11.051	28
29	19.188	18.036	16.984	16.022	15.141	14.333	13.591	12.278	11.158	29
30	19.600	18.392	17.292	16.289	15.372	14.534	13.765	12.409	11.258	30
31	20.000	18.736	17.588	16.544	15.593	14.724	13.929	12.532	11.350	31
32	20.389	19.069	17.874	16.789	15.803	14.904	14.084	12.647	11.435	32
33	20.766	19.390	18.148	17.023	16.003	15.075	14.230	12.754	11.514	33
34	21.132	19.701	18.411	17.247	16.193	15.237	14.368	12.854	11.587	34
35	21.487	20.001	18.665	17.461	16.374	15.391	14.498	12.948	11.655	35
36	21.832	20.290	18.908	17.666	16.547	15.536	14.621	13.035	11.717	36
37	22.167	20.571	19.143	17.862	16.711	15.674	14.737	13.117	11.775	37
38	22.492	20.841	19.363	18.050	16.868	15.805	14.846	13.193	11.829	38
39	22.808	21.103	19.584	18.230	17.017	15.929	14.949	13.265	11.879	39
40	23.115	21.355	19.793	18.402	17.159	16.046	15.046	13.332	11.925	40
41	23.412	21.599	19.993	18.566	17.294	16.157	15.138	13.394	11.967	41
42	23.701	21.835	20.186	18.724	17.423	16.263	15.225	13.452	12.007	42
43	23.982	22.063	20.371	18.874	17.546	16.363	15.306	13.507	12.043	43
44	24.254	22.283	20.549	19.018	17.663	16.458	15.383	13.558	12.077	44
45	24.519	22.495	20.720	19.156	17.774	16.548	15.456	13.606	12.108	45

TABLE I.—(Continued)

Present Value of £1 per Annum for any Number of Years.

Years.	3 per cent.	3½ per cent.	4 per cent.	4½ per cent.	5 per cent.	5½ per cent.	6 per cent.	7 per cent.	8 per cent.	Years.
46	24·775	22·701	20·885	19·288	17·880	16·633	15·524	13·650	12·137	46
47	25·025	22·899	21·043	19·415	17·981	16·714	15·589	13·692	12·164	47
48	25·267	23·091	21·195	19·536	18·077	16·790	15·650	13·730	12·189	48
49	25·502	23·277	21·341	19·651	18·169	16·863	15·708	13·767	12·212	49
50	25·730	23·456	21·482	19·762	18·256	16·932	15·762	13·801	12·233	50
51	25·951	23·629	21·617	19·868	18·339	16·997	15·813	13·832	12·253	51
52	26·166	23·796	21·748	19·969	18·418	17·058	15·861	13·862	12·272	52
53	26·375	23·957	21·873	20·066	18·493	17·117	15·907	13·890	12·288	53
54	26·578	24·113	21·993	20·159	18·565	17·173	15·950	13·916	12·304	54
55	26·774	24·264	22·109	20·248	18·633	17·225	15·991	13·940	12·319	55
56	26·965	24·410	22·220	20·333	18·699	17·275	16·029	13·963	12·332	56
57	27·151	24·550	22·327	20·414	18·761	17·322	16·065	13·984	12·344	57
58	27·331	24·686	22·430	20·492	18·820	17·367	16·099	14·003	12·356	58
59	27·506	24·818	22·528	20·567	18·876	17·410	16·131	14·022	12·367	59
60	27·676	24·945	22·623	20·638	18·929	17·450	16·161	14·039	12·377	60
61	27·840	25·067	22·715	20·706	18·980	17·488	16·190	14·055	12·386	61
62	28·000	25·186	22·803	20·772	19·029	17·524	16·217	14·070	12·394	62
63	28·156	25·300	22·887	20·834	19·075	17·558	16·242	14·084	12·402	63
64	28·306	25·411	22·969	20·894	19·119	17·591	16·266	14·098	12·409	64
65	28·453	25·518	23·047	20·951	19·161	17·622	16·289	14·110	12·416	65
66	28·595	25·621	23·122	21·006	19·201	17·651	16·310	14·121	12·422	66
67	28·733	25·721	23·194	21·058	19·239	17·679	16·331	14·132	12·428	67
68	28·867	25·817	23·264	21·108	19·275	17·705	16·350	14·142	12·433	68
69	28·997	25·910	23·330	21·156	19·310	17·730	16·368	14·152	12·438	69
70	29·123	26·000	23·395	21·202	19·343	17·753	16·385	14·160	12·443	70
71	29·246	26·087	23·456	21·246	19·374	17·776	16·401	14·169	12·447	71
72	29·365	26·171	23·516	21·288	19·404	17·797	16·416	14·176	12·451	72
73	29·481	26·253	23·573	21·328	19·432	17·817	16·430	14·183	12·455	73
74	29·592	26·331	23·628	21·367	19·459	17·836	16·443	14·190	12·458	74
75	29·702	26·407	23·680	21·404	19·485	17·854	16·456	14·196	12·461	75
76	29·807	26·480	23·731	21·439	19·509	17·871	16·468	14·202	12·464	76
77	29·910	26·551	23·780	21·473	19·533	17·887	16·479	14·208	12·467	77
78	30·010	26·619	23·827	21·505	19·555	17·903	16·490	14·213	12·469	78
79	30·107	26·685	23·872	21·536	19·576	17·917	16·500	14·218	12·471	79
80	30·201	26·749	23·915	21·565	19·596	17·931	16·509	14·222	12·474	80
85	30·631	27·037	24·109	21·695	19·684	17·990	16·549	14·240	12·482	85
90	31·002	27·279	24·267	21·799	19·752	18·035	16·679	14·253	12·488	90
95	31·323	27·484	24·398	21·883	19·806	18·069	16·601	14·263	12·492	95
100	31·599	27·655	24·505	21·950	19·848	18·096	16·618	14·269	12·494	100
Per- petuity.	33·333	28·571	25·000	22·222	20·000	18·182	16·667	14·286	12·500	Per- petuity.

TABLE II.

Amount of £1 Invested at Compound Interest at end of  
Given Number of Years.

(The thick lines show the number of years in which a sum doubles  
and trebles itself at various rates per cent.)

Years.	2½ per cent.	3 per cent.	3½ per cent.	4 per cent.	4½ per cent.	5 per cent.	6 per cent.	Years.
1	1·025	1·030	1·035	1·040	1·045	1·050	1·060	1
2	1·051	1·061	1·071	1·082	1·092	1·103	1·124	2
3	1·077	1·093	1·109	1·125	1·141	1·158	1·191	3
4	1·104	1·126	1·148	1·170	1·193	1·216	1·262	4
5	1·131	1·159	1·188	1·217	1·246	1·276	1·338	5
6	1·160	1·194	1·229	1·265	1·302	1·340	1·419	6
7	1·189	1·230	1·272	1·316	1·361	1·407	1·504	7
8	1·218	1·267	1·317	1·369	1·422	1·477	1·594	8
9	1·249	1·305	1·363	1·423	1·486	1·551	1·689	9
10	1·280	1·344	1·411	1·480	1·553	1·629	1·791	10
11	1·312	1·384	1·460	1·539	1·623	1·710	1·898	11
12	1·345	1·426	1·511	1·601	1·696	1·796	2·012	12
13	1·379	1·469	1·564	1·665	1·772	1·886	2·133	13
14	1·413	1·513	1·619	1·732	1·852	1·980	2·261	14
15	1·448	1·558	1·675	1·801	1·935	2·079	2·397	15
16	1·485	1·605	1·734	1·873	2·022	2·183	2·540	16
17	1·522	1·653	1·795	1·948	2·113	2·292	2·693	17
18	1·560	1·702	1·857	2·026	2·208	2·407	2·854	18
19	1·599	1·754	1·923	2·107	2·308	2·527	3·026	19
20	1·639	1·806	1·990	2·191	2·412	2·653	3·207	20
21	1·680	1·860	2·059	2·279	2·520	2·786	3·400	21
22	1·722	1·916	2·132	2·370	2·634	2·925	3·604	22
23	1·765	1·974	2·206	2·465	2·752	3·072	3·820	23
24	1·809	2·033	2·283	2·563	2·876	3·225	4·049	24
25	1·854	2·094	2·363	2·666	3·005	3·386	4·292	25
26	1·900	2·157	2·446	2·772	3·141	3·556	4·549	26
27	1·948	2·221	2·532	2·883	3·282	3·733	4·822	27
28	1·997	2·288	2·620	2·999	3·430	3·920	5·112	28
29	2·046	2·357	2·712	3·119	3·584	4·116	5·418	29
30	2·098	2·427	2·807	3·243	3·745	4·322	5·743	30
31	2·150	2·500	2·905	3·373	3·914	4·538	6·088	31
32	2·204	2·575	3·007	3·508	4·090	4·765	6·453	32
33	2·259	2·652	3·112	3·648	4·274	5·003	6·841	33
34	2·315	2·732	3·221	3·794	4·466	5·253	7·251	34
35	2·373	2·814	3·334	3·946	4·667	5·516	7·686	35
36	2·433	2·898	3·450	4·104	4·877	5·792	8·147	36
37	2·493	2·985	3·571	4·268	5·097	6·081	8·636	37
38	2·556	3·075	3·696	4·439	5·326	6·385	9·154	38
39	2·620	3·167	3·825	4·616	5·566	6·705	9·704	39
40	2·685	3·262	3·959	4·801	5·816	7·040	10·286	40
45	3·038	3·782	4·702	5·841	7·248	8·985	13·765	45
50	3·437	4·384	5·585	7·107	9·033	11·467	18·420	50
55	3·889	5·082	6·633	8·646	11·256	14·636	24·650	55
60	4·400	5·892	7·878	10·520	14·027	18·679	32·788	60
65	4·978	6·830	9·357	12·799	17·481	23·840	44·145	65
70	5·632	7·918	11·113	15·572	21·784	30·426	59·076	70
75	6·372	9·179	13·199	18·945	27·147	38·833	79·057	75
80	7·210	10·641	15·676	23·050	33·830	49·561	105·796	80



TABLE III

Amount of £1 per Annum at the end of a Given Number of Years at various rates per cent. of Compound Interest.

Years.	2½ per cent.	2½ per cent.	3 per cent.	3½ per cent.	3½ per cent.	3½ per cent.	4 per cent.	5 per cent.	Years.
1	1·000	1·000	1·000	1·000	1·000	1·000	1·000	1·000	1
2	2·025	2·027	2·030	2·032	2·035	2·037	2·040	2·050	2
3	3·076	3·083	3·091	3·099	3·106	3·114	3·122	3·153	3
4	4·153	4·168	4·184	4·199	4·215	4·231	4·246	4·310	4
5	5·256	5·283	5·309	5·336	5·362	5·389	5·416	5·526	5
6	6·388	6·428	6·468	6·509	6·550	6·591	6·633	6·802	6
7	7·547	7·605	7·662	7·721	7·779	7·839	7·898	8·142	7
8	8·736	8·814	8·892	8·972	9·052	9·133	9·214	9·549	8
9	9·955	10·056	10·159	10·263	10·369	10·475	10·583	11·027	9
10	11·203	11·333	11·464	11·597	11·731	11·868	12·006	12·578	10
11	12·483	12·644	12·808	12·974	13·142	13·313	13·486	14·027	11
12	13·796	13·992	14·192	14·395	14·602	14·812	15·026	15·917	12
13	15·140	15·377	15·618	15·863	16·113	16·368	16·627	17·713	13
14	16·519	16·800	17·086	17·379	17·677	17·981	18·292	19·599	14
15	17·932	18·262	18·599	18·943	19·296	19·656	20·024	21·579	15
16	19·380	19·764	20·157	20·559	20·971	21·393	21·825	23·657	16
17	20·865	21·307	21·762	22·227	22·705	23·195	23·698	25·840	17
18	22·386	22·893	23·414	23·950	24·500	25·065	25·645	28·132	18
19	23·946	24·523	25·117	25·728	26·357	27·005	27·671	30·539	19
20	25·545	26·197	26·870	27·564	28·280	29·017	29·778	33·066	20
21	27·183	27·918	28·676	29·460	30·269	31·106	31·969	35·719	21
22	28·863	29·686	30·537	31·418	32·329	33·272	34·248	38·505	22
23	30·584	31·502	32·453	33·439	34·460	35·520	36·618	41·430	23
24	32·349	33·368	34·426	35·525	36·667	37·852	39·083	44·502	24
25	34·158	35·286	36·459	37·680	38·950	40·271	41·646	47·727	25
26	36·012	37·256	38·553	39·905	41·313	42·781	44·312	51·113	26
27	37·912	39·281	40·710	42·201	43·759	45·386	47·084	54·669	27
28	39·860	41·361	42·931	44·573	46·291	48·088	49·968	58·403	28
29	41·856	43·498	45·219	47·022	48·911	50·891	52·966	62·323	29
30	43·903	45·695	47·575	49·550	51·623	53·799	56·085	66·439	30
31	46·000	47·951	50·003	52·160	54·429	56·817	59·328	70·761	31
32	48·150	50·270	52·503	54·855	57·335	59·947	62·701	75·290	32
33	50·354	52·652	55·078	57·638	60·341	63·195	66·210	80·064	33
34	52·613	55·100	57·730	60·511	63·453	66·565	69·858	85·067	34
35	54·928	57·615	60·462	63·478	66·674	70·061	73·652	90·320	35
36	57·301	60·200	63·276	66·541	70·008	73·689	77·598	95·836	36
37	59·734	62·855	66·174	69·704	73·458	77·452	81·702	101·628	37
38	62·227	65·584	69·159	72·969	77·029	81·356	85·970	107·710	38
39	64·783	68·387	72·234	76·341	80·725	85·407	90·409	114·095	39
40	67·403	71·268	75·401	79·822	84·550	89·610	95·026	120·800	40
45	81·516	86·904	92·720	98·999	105·782	113·110	121·029	150·700	45
50	97·484	104·812	112·797	121·503	130·998	141·358	152·667	209·348	50
55	115·551	125·321	136·072	147·908	160·947	175·316	191·159	272·713	55
60	135·992	148·809	163·053	178·893	196·517	216·137	237·991	353·584	60
65	159·118	175·710	194·333	215·251	238·763	265·207	294·968	456·798	65
70	185·284	206·518	230·594	257·914	288·938	324·195	364·290	588·529	70
75	214·888	241·803	272·631	307·974	348·530	395·104	448·631	756·654	75
80	248·383	282·213	321·363	366·716	419·307	480·344	551·245	971·229	80

TABLE IV

Present Value of £1 due at the end of a Given  
Number of Years.

Years.	3 per cent.	3½ per cent.	4 per cent.	4½ per cent.	5 per cent.	6 per cent.	7 per cent.	8 per cent.	Years.
1	·97087	·96618	·96154	·95694	·95238	·94340	·93458	·92593	1
2	·94260	·93351	·92456	·91573	·90703	·89000	·87344	·85734	2
3	·91514	·90194	·88900	·87630	·86384	·83962	·81630	·79383	3
4	·88849	·87144	·85480	·83856	·82270	·79209	·76290	·73503	4
5	·86261	·84197	·82193	·80245	·78353	·74726	·71299	·68058	5
6	·83748	·81350	·79031	·76790	·74622	·70496	·66634	·63017	6
7	·81309	·78599	·75992	·73483	·71068	·66506	·62275	·58349	7
8	·78941	·75941	·73069	·70319	·67684	·62741	·58201	·54027	8
9	·76642	·73373	·70259	·67290	·64461	·59190	·54393	·50025	9
10	·74409	·70892	·67556	·64393	·61391	·55839	·50835	·46319	10
11	·72242	·68495	·64958	·61620	·58468	·52679	·47500	·42888	11
12	·70138	·66178	·62460	·58966	·55684	·49697	·44401	·39711	12
13	·68095	·63940	·60057	·56427	·53032	·46884	·41496	·36770	13
14	·66112	·61778	·57748	·53997	·50507	·44230	·38782	·34046	14
15	·64186	·59689	·55526	·51672	·48102	·41727	·36245	·31524	15
16	·62317	·57671	·53391	·49447	·45811	·39365	·33873	·29189	16
17	·60502	·55720	·51337	·47318	·43630	·37136	·31657	·27027	17
18	·58739	·53836	·49363	·45280	·41552	·35034	·29586	·25025	18
19	·57029	·52016	·47464	·43330	·39573	·33051	·27651	·23171	19
20	·55368	·50257	·45639	·41464	·37689	·31180	·25842	·21455	20
21	·53755	·48557	·43883	·39679	·35894	·29416	·24151	·19866	21
22	·52189	·46915	·42196	·37970	·34185	·27751	·22571	·18394	22
23	·50669	·45329	·40573	·36335	·32557	·26180	·21095	·17032	23
24	·49193	·43796	·39012	·34770	·31007	·24698	·19715	·15770	24
25	·47761	·42315	·37512	·33273	·29530	·23300	·18425	·14602	25
26	·46360	·40884	·36069	·31840	·28124	·21981	·17220	·13520	26
27	·45019	·39501	·34682	·30469	·26785	·20737	·16093	·12519	27
28	·43708	·38165	·33348	·29157	·25509	·19563	·15040	·11591	28
29	·42435	·36875	·32065	·27901	·24295	·18456	·14056	·10733	29
30	·41199	·35628	·30832	·26700	·23138	·17411	·13137	·99938	30
31	·39999	·34423	·29646	·25550	·22036	·16425	·12277	·99202	31
32	·38834	·33259	·28506	·24450	·20987	·15496	·11474	·98520	32
33	·37703	·32134	·27409	·23397	·19987	·14619	·10723	·97880	33
34	·36604	·31048	·26355	·22390	·19035	·13791	·10022	·97305	34
35	·35538	·29998	·25342	·21425	·18129	·13011	·99366	·96763	35
36	·34503	·28983	·24367	·20503	·17266	·12274	·98754	·96262	36
37	·33498	·28003	·23430	·19620	·16444	·11579	·98181	·95799	37
38	·32523	·27056	·22529	·18775	·15661	·10924	·97646	·95369	38
39	·31575	·26141	·21662	·17967	·14915	·10306	·97146	·94971	39
40	·30656	·25257	·20829	·17193	·14205	·99722	·96678	·94603	40
45	·26444	·21266	·17120	·13796	·11130	·07765	·04761	·03133	45
50	·22811	·17905	·14071	·11071	·08720	·05429	·03395	·02132	50
55	·19677	·15076	·11566	·08884	·06833	·04057	·02420	·01451	55
60	·16973	·12693	·09506	·07129	·05354	·03031	·01726	·00988	60
65	·14641	·10688	·07813	·05721	·04195	·02265	·01230	·00672	65
70	·12630	·08999	·06422	·04590	·03287	·01693	·00877	·00457	70
75	·10895	·07577	·05278	·03684	·02575	·01265	·00625	·00311	75
80	·09398	·06379	·04338	·02956	·02018	·00945	·00446	·00212	80

## TIMBER-MEASURING TABLES

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Contents corresponding to Quarter Girt of 6 to 36 in.  
and 6 to 25 ft. in length.

## TIMBER-MEASURING TABLES (DIVISOR 144)

Contents (in cubic feet and twelfths) corresponding to a particular quarter girt and length.

Quarter Girt.	Length in Feet.										Quarter Girt.
	6	7	8	9	10	11	12	13	14	15	
Ins.											Ins.
6	1 6	1 9	2 0	2 3	2 6	2 9	3 0	3 3	3 6	3 9	6
6½	1 9	2 0	2 4	2 7	2 11	3 2	3 6	3 9	4 1	4 4	6½
7	2 0	2 4	2 8	3 0	3 4	3 8	4 1	4 5	4 9	5 1	7
7½	2 4	2 8	3 1	3 6	3 10	4 3	4 8	5 0	5 5	5 10	7½
8	2 8	3 1	3 6	4 0	4 5	4 10	5 4	5 9	6 2	6 8	8
8½	3 0	3 6	4 0	4 6	5 0	5 6	6 0	6 6	7 0	7 6	8½
9	3 4	3 11	4 6	5 0	5 7	6 2	6 9	7 3	7 10	8 5	9
9½	3 9	4 4	5 0	5 7	6 3	6 10	7 6	8 1	8 9	9 4	9½
10	4 2	4 10	5 6	6 3	6 11	7 7	8 4	9 0	9 8	10 5	10
10½	4 7	5 4	6 1	6 10	7 7	8 5	9 2	9 11	10 8	11 5	10½
11	5 0	5 10	6 8	7 6	8 4	9 2	10 1	10 11	11 9	12 7	11
11½	5 6	6 5	7 4	8 3	9 2	10 1	11 0	11 11	12 10	13 9	11½
12	6 0	7 0	8 0	9 0	10 0	11 0	12 0	13 0	14 0	15 0	12
12½	6 6	7 7	8 8	9 9	10 10	11 11	13 0	14 1	15 2	16 3	12½
13	7 0	8 2	9 4	10 6	11 8	12 10	14 1	15 3	16 5	17 7	13
13½	7 7	8 10	10 1	11 4	12 7	13 11	15 1	16 4	17 7	18 11	13½
14	8 2	9 6	10 10	12 3	13 7	14 11	16 4	17 8	19 0	20 5	14
14½	8 9	10 2	11 8	13 1	14 7	16 0	17 6	18 11	20 5	21 10	14½
15	9 4	10 11	12 6	14 0	15 7	17 2	18 9	20 3	21 10	23 5	15
15½	10 0	11 8	13 4	15 0	16 8	18 4	20 0	21 8	23 4	25 0	15½
16	10 8	12 5	14 2	16 0	17 9	19 6	21 4	23 1	24 10	26 8	16
16½	11 4	13 2	15 1	17 0	18 10	20 9	22 8	24 6	26 5	28 4	16½
17	12 0	14 0	16 0	18 0	20 0	22 0	24 1	26 1	28 1	30 1	17
17½	12 9	14 10	17 0	19 1	21 3	23 4	25 6	27 7	29 9	31 10	17½
18	13 6	15 9	18 0	20 3	22 6	24 9	27 0	29 3	31 6	33 9	18
18½	14 3	16 7	19 0	21 4	23 9	26 1	28 6	30 10	33 3	35 7	18½
19	15 0	17 6	20 0	22 6	25 0	27 6	30 1	32 7	35 1	37 7	19
19½	15 10	18 5	21 0	23 8	26 4	28 11	31 6	34 3	36 10	39 6	19½
20	16 8	19 5	22 2	25 0	27 9	30 6	33 4	36 1	38 10	41 8	20
20½	17 6	20 5	23 4	26 3	29 2	32 1	35 0	37 11	40 10	43 9	20½
21	18 4	21 5	24 6	27 6	30 7	33 8	36 9	39 9	42 10	45 11	21
21½	19 3	22 5	25 8	28 10	32 1	35 3	38 6	41 8	44 11	48 1	21½
22	20 2	23 6	26 10	30 3	33 7	36 11	40 4	43 8	47 0	50 5	22
22½	21 1	24 7	28 1	31 7	35 1	38 8	42 2	45 8	49 2	52 8	22½
23	22 0	25 8	29 4	33 0	36 8	40 4	44 1	47 9	51 5	55 1	23
23½	23 0	26 10	30 8	34 6	38 4	42 2	46 0	49 10	53 8	57 6	23½
24	24 0	28 0	32 0	36 0	40 0	44 0	48 0	52 0	56 0	60 0	24
24½	25 0	29 2	33 4	37 6	41 8	45 10	50 0	54 2	58 4	62 6	24½
25	26 0	30 4	34 8	39 0	43 4	47 8	52 1	56 5	60 9	65 1	25
25½	27 1	31 7	36 1	40 7	45 1	49 8	54 2	58 8	63 2	67 8	25½
26	28 2	32 10	37 6	42 3	46 11	51 7	56 4	61 0	65 8	70 5	26
26½	29 3	34 1	39 0	43 10	48 9	53 7	58 6	63 4	68 3	73 1	26½
27	30 4	35 5	40 6	45 6	50 7	55 8	60 9	65 9	70 10	75 11	27
27½	31 6	36 9	42 0	47 3	52 6	57 9	63 0	68 3	73 6	78 9	27½
28	32 8	38 1	43 6	49 0	54 5	59 10	65 4	70 9	76 2	81 8	28
28½	33 10	39 5	45 1	50 9	56 4	62 0	67 8	73 3	78 11	84 7	28½
29	35 0	40 10	46 8	52 6	58 4	64 2	70 1	75 11	81 9	87 7	29
29½	36 3	42 3	48 4	54 4	60 5	66 5	72 6	78 6	84 7	90 7	29½
30	37 6	43 9	50 0	56 3	62 6	68 9	75 0	81 3	87 6	93 9	30
30½	38 9	45 2	51 8	58 1	64 7	71 0	77 6	83 11	90 5	96 10	30½
31	40 0	46 8	53 4	60 0	66 8	73 4	80 0	86 8	93 4	100 0	31
31½	41 4	48 2	55 1	62 0	68 10	75 9	82 8	89 6	96 5	103 4	31½
32	42 8	49 9	56 10	64 0	71 1	78 2	85 4	92 5	99 6	106 8	32
32½	44 0	51 4	58 8	66 0	73 4	80 8	88 0	95 4	102 8	110 0	32½
33	45 4	52 11	60 6	68 0	75 7	83 2	90 9	98 3	105 10	113 5	33
33½	46 9	54 6	62 4	70 1	77 11	85 8	93 6	101 3	109 1	116 10	33½
34	48 2	56 2	64 2	72 3	80 3	88 3	96 4	104 4	112 4	120 5	34
34½	49 7	57 10	66 1	74 4	82 7	90 11	99 2	107 5	115 8	123 11	34½
35	51 0	59 6	68 0	76 6	85 0	93 6	102 1	110 7	119 1	127 7	35
35½	52 6	61 3	70 7	78 9	87 6	96 3	105 0	113 9	122 6	131 3	35½
36	54 0	63 0	72 0	81 0	90 0	99 0	108 0	117 0	126 0	135 0	36

## TIMBER-MEASURING TABLES

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## TIMBER-MEASURING TABLES (DIVISOR 144)

Contents (in cubic feet and twelfths) corresponding to a particular quarter girt and length.

Quarter Girt.	Length in Feet.										Quarter Girt.
	16	17	18	19	20	21	22	23	24	25	
Ins.											Ins.
6	4 0	4 3	4 6	4 9	5 0	5 3	5 6	5 9	6 0	6 3	6
6½	4 8	4 11	5 3	5 7	5 10	6 2	6 5	6 9	7 0	7 4	6½
7	5 5	5 9	6 1	6 5	6 9	7 1	7 5	7 9	8 2	8 6	7
7½	6 2	6 7	7 0	7 5	7 9	8 2	8 7	8 11	9 4	9 9	7½
8	7 1	7 6	8 0	8 5	8 10	9 4	9 9	10 2	10 8	11 1	8
8½	8 0	8 6	9 0	9 6	10 0	10 6	11 0	11 6	12 0	12 6	8½
9	9 0	9 6	10 1	10 8	11 3	11 9	12 4	12 11	13 6	14 0	9
9½	10 0	10 7	11 3	11 10	12 6	13 1	13 9	14 4	15 0	15 7	9½
10	11 1	11 9	12 6	13 2	13 10	14 7	15 3	15 11	16 8	17 4	10
10½	12 3	13 0	13 9	14 6	15 3	16 1	16 10	17 7	18 4	19 1	10½
11	13 5	14 3	15 1	15 11	16 9	17 7	18 5	19 3	20 2	21 0	11
11½	14 8	15 7	16 6	17 5	18 4	19 3	20 2	21 1	22 0	22 11	11½
12	16 0	17 0	18 0	19 0	20 0	21 0	22 0	23 0	24 0	25 0	12
12½	17 4	18 5	19 6	20 7	21 8	22 9	23 10	24 11	26 1	27 1	12½
13	18 9	19 11	21 1	22 3	23 5	24 7	25 9	26 11	28 2	29 4	13
13½	20 2	21 6	22 9	24 0	25 3	26 6	27 10	29 1	30 4	31 7	13½
14	21 9	23 1	24 6	25 10	27 2	28 7	29 11	31 3	32 8	34 0	14
14½	23 4	24 9	26 3	27 8	29 2	30 7	32 1	33 6	35 0	36 5	14½
15	25 0	26 6	28 1	29 8	31 3	32 9	34 4	35 11	37 6	39 0	15
15½	26 8	28 4	30 0	31 8	33 4	35 0	36 8	38 4	40 0	41 8	15½
16	28 5	30 2	32 0	33 9	35 6	37 4	39 1	40 10	42 8	44 5	16
16½	30 2	32 1	34 0	35 10	37 9	39 8	41 7	43 5	45 4	47 3	16½
17	32 1	34 1	36 1	38 1	40 1	42 1	44 1	46 1	48 2	50 2	17
17½	34 0	36 1	38 1	40 4	42 6	44 7	46 9	48 10	51 0	53 1	17½
18	36 0	38 3	40 6	42 9	45 0	47 3	49 6	51 9	54 0	56 3	18
18½	38 0	40 4	42 9	45 1	47 6	49 10	52 3	54 7	57 0	59 4	18½
19	40 1	42 7	45 1	47 7	50 1	52 7	55 1	57 7	60 2	62 8	19
19½	42 1	44 8	47 5	50 2	52 9	55 4	58 0	60 8	63 3	65 11	19½
20	44 5	47 2	50 0	52 9	55 6	58 4	61 1	63 10	66 8	69 5	20
20½	46 8	49 7	52 6	55 5	58 4	61 3	64 2	67 1	70 0	72 11	20½
21	49 0	52 1	55 2	58 3	61 3	64 4	67 5	70 6	73 6	76 7	21
21½	51 4	54 6	57 9	60 11	64 2	67 4	70 7	73 9	77 0	80 2	21½
22	53 9	57 1	60 6	63 10	67 2	70 7	73 11	77 3	80 8	84 0	22
22½	56 3	59 9	63 3	66 9	70 3	73 9	77 4	80 10	84 4	87 10	22½
23	58 9	62 5	66 1	69 9	73 5	77 1	80 9	84 5	88 2	91 10	23
23½	61 4	65 2	69 0	72 10	76 8	80 6	84 4	88 2	92 0	95 10	23½
24	64 0	68 0	72 0	76 0	80 0	84 0	88 0	92 0	96 0	100 0	24
24½	66 8	70 10	75 0	79 2	83 4	87 6	91 8	95 10	100 0	104 2	24½
25	69 5	73 9	78 1	82 5	86 9	91 1	95 5	99 9	104 2	108 6	25
25½	72 3	76 9	81 3	85 9	90 3	94 9	99 4	103 10	108 4	112 10	25½
26	75 3	79 11	84 8	89 4	94 0	98 9	103 5	108 1	112 10	117 6	26
26½	78 0	82 10	87 9	92 7	97 6	102 4	107 3	112 1	117 0	121 10	26½
27	81 0	86 0	91 1	96 2	101 3	106 3	111 4	116 5	121 6	126 6	27
27½	84 0	89 3	94 6	99 9	105 0	110 3	115 6	120 9	126 0	131 3	27½
28	87 1	92 6	98 0	103 5	108 10	114 4	119 9	125 2	130 8	136 1	28
28½	90 3	95 10	101 6	107 1	112 8	118 4	123 11	129 6	135 2	140 9	28½
29	93 5	99 3	105 1	110 11	116 9	122 7	128 5	134 3	140 2	146 0	29
29½	96 8	102 8	108 9	114 9	120 10	126 10	132 11	138 11	145 0	151 0	29½
30	100 0	106 3	112 6	118 9	125 0	131 3	137 6	143 9	150 0	156 3	30
30½	103 4	109 9	116 3	122 8	129 2	135 7	142 1	148 6	155 0	161 5	30½
31	106 8	113 4	120 0	126 8	133 4	140 0	146 8	153 4	160 0	166 8	31
31½	110 3	117 1	124 0	130 11	137 9	144 8	151 7	158 5	165 4	172 3	31½
32	113 9	120 10	128 0	135 1	142 2	149 4	156 5	163 6	170 8	177 9	32
32½	117 4	124 8	132 0	139 4	146 8	154 0	161 4	168 8	176 0	183 4	32½
33	121 0	128 6	136 1	143 8	151 3	158 9	166 4	173 11	181 6	189 0	33
33½	124 8	132 5	140 3	148 0	155 10	163 7	171 5	179 2	187 0	194 9	33½
34	128 5	136 5	144 6	152 6	160 6	168 7	176 7	184 7	192 8	200 8	34
34½	132 3	140 6	148 9	157 0	165 3	173 6	181 10	190 1	198 4	206 7	34½
35	136 1	144 7	153 1	161 7	170 1	178 7	187 1	195 7	204 2	212 8	35
35½	140 0	148 9	157 6	166 3	175 0	183 9	192 6	201 3	210 0	218 9	35½
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